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97th Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 97–660

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1982

July 23, 1982.—Committed to the Committee on the Whole House on the State of the Union and ordered to be printed

Mr. Montgomery, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 6782]

[Including cost estimate and comparison of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 6782) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

At the end of the bill add the following:

PROTECTION OF QUALITY OF HEALTH-CARE

Sec. 210. (a) Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B) of this paragraph, all activities carried out at a medical facility under the direct jurisdiction of the Administrator shall be performed by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director, determines that such facility is not capable of carrying out any such activity through such employees or that contracting for the performance of such activity would enhance the quality of medical care for eligible veterans.

"(B) Subparagraph (A) of this paragraph does not prohibit or restrict any authority of the Veterans' Administration under any other provision of this title or any other provision of law to enter into contracts or cooperative sharing

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agreements with other Federal agencies or departments or with State or nongovernmental entities for the exchange or sharing of goods, services, facilities, or resources."

(b) Section 5010(a)(6) of title 38, United States Code, as added by subsection (a), does not apply with respect to a contract in effect on May 15, 1982, or to any renewal, extension, or modification of such a contract.

TITLE III—BUDGET SAVINGS PROVISIONS

SHORT TITLE

Sec. 301. This title may be cited as the "Veterans' Budget Reconciliation Act of 1982".

LOAN FEE FOR VETERANS' ADMINISTRATION HOME LOANS

Sec. 302. (a)(1) Subchapter III of chapter 37 is amended by adding at the end the following new section:

"§ 1829. Loan fees

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a loan guaranteed, made, or insured under this chapter, and no loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be one-half of 1 percent of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee shall not be collected under this section from a veteran receiving or entitled to receive compensation or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fees.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

EFFECTIVE DATE OF BENEFIT PAYMENTS

Sec. 303. (a)(1) Chapter 51 is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made for any period before the first day of the calendar month following the month in which the award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of payment based on an award.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 304. Effective on October 1, 1982, section 3012(b)(2) is amended by striking out "calender year" and inserting in lieu thereof "month".

ROUNDING OF PENSION PAYMENTS TO NEXT LOWER DOLLAR

SEC. 305. (a)(1) Chapter 51 is amended by adding at the end the following new section:

"§ 3023. Rounding of pension payments

"The amount of any pension payment under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public

Law 95–588), if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding of pension payments.".

(b) Section 3023 of tiitle 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

ELIGIBILITY OF COLLEGE STUDENTS FOR PENSION

SEC. 306. (a) Section 501 is amended by adding at the end the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term 'child' shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term 'child' includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) does not apply to any child to whom or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 of title 38, United States Code, if such child has attained the age of eighteen years before October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, or 3112 of title 38, United States Code, or section 306(a) of Public Law 95–588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 of such title or section 306(a) of Public Law 95–588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall—

(A) not be paid for the months of May, June, July, and August, beginning with the month of May 1983;

(B) not be paid for any month after April 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of September 1982 (or a later month if the Administrator considers a later month appropriate under the circumstances), reduced by an amount—

(i) during the months after September 1982 and before May 1983, equal to 25 percent of the benefit payable for September 1982 (or such later month);

(ii) during the months after August 1983 and before May 1984, equal to 50 percent of the benefit payable for September 1982 (or such later month); and

(iii) during the months after September 1984 and before May 1985, equal to 75 percent of the benefit payable for September 1982 (or such later month); and

(D) not be paid for any month after such pension or additional pension is discontinued at any time after September 30, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who—

(A) before attaining the age of 18 became permanently incapable of self-support, or

(B) who, after attaining the age of 18 and before attaining the age of 19, is pursuing a program of education for the purpose of receiving a secondary school diploma.

REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

SEC. 307. (a) Section 1631(c) is repealed.

(b)(1) Section 1652(c) is amended by striking out "correspondence school,".

(2) Section 1681(b) is amended by striking out ", other than a program exclusively by correspondence,".

(3)(A) Section 1684 is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

(B) The item relating to such section in the table of sections at the beginning of chapter 34 of such title is amended to read as follows:

"1684. Apprenticeship or other on-job training.".

(c)(1) Section 1701(a)(6) is amended by striking out "correspondence school,".

(2)(A) Section 1734 is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training".

(C) The item relating to such section in the table of sections at the beginning of chapter 35 is amended to read as follows:

"1734. Apprenticeship or other on-job training.".

(d)(1) Section 1780 is amended—

(A) in subsection (a)—

(i) by striking out ", other than a program by correspondence,";

(ii) by inserting "or" at the end of clause (4);

(iii) by striking out clause (5); and

(iv) by redesignating clause (6) as clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection); and

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively; and

(D) by striking out "subsection (d)(2)" in subsection (d) (as so redesignated) and inserting in lieu thereof "subsection (c)(2)".

(2) Section 1784 is amended—

(A) by striking out "or, in the case of correspondence training, the last date a lesson was serviced by a school" in subsection (a); and

(B) by striking out "section 1780(d)(4)" in subsection (c) and inserting in lieu thereof "section 1780(c)(4)".

(3)(A) Section 1786, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 is amended by striking out the item relating to section 1786.

(4) The second sentence of section 1798(c) of such title is amended by striking out "correspondence, or".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

(f) The amendments made by this section shall take effect on October 1, 1982.

INTRODUCTION

On April 22, 1982, the Subcommittee on Compensation, Pension and Insurance conducted hearings to review legislation concerning the Veterans' Administration service-connected disability compensation, dependency and indemnity compensation program and other related legislation.

The Subcommittee received testimony from the Hon. Christopher H. Smith, Representative, 4th District of New Jersey; the Veterans' Administration; AMVETS: National Association for Uniformed Services; Disabled American Veterans; National Military Wives Association; Veterans of World War I; the Retired Officers Association; Non-Commissioned Officers Association; Survivors of Sacrifice; National Association of Military Widows; Blinded Veterans Association; Paralyzed Veterans of America; The American Legion; and Veterans of Foreign Wars.

The Subcommittee also received testimony on H.R. 5709, a bill reflecting President Reagan's original budget submission proposing an increase of 8.1 percent in the rates of compensation and dependency and indemnity compensation as well as the proposed legislative cost savings contained in the bill.

Comments were also heard on H.R. 5144, a bill which would provide compensation eligibility to members of Senior Reserve Officers' Training Corps programs who are disabled during annual training duty; H.R. 6039, a bill which would correct a technical error with respect to entitlement to dependency and indemnity compensation; H.R. 6040, a bill which would reinstate burial benefits for certain wartime veterans whose remains are unclaimed; and H.R. 6041, a bill which would provide flags to certain individuals buried in national cemeteries under section 1002(6) of Title 38, United States Code.

At an earlier hearing on the Servicemen's Group Life Insurance Program (SGLI) on March 25, 1982, the Subcommittee received testimony on an Administration draft bill, subsequently introduced as H.R. 6044, which would make administrative improvements to the life insurance program. Testimony was received from the Veterans' Administration, Department of Defense, National Association for Uniformed Services, the Non-Commissioned Officers Association, and the Paralyzed Veterans of America.

The Subcommittee on Oversight and Investigations held a hearing on April 27, 1982, concerning an Office of Management and Budget Task Force proposed draft revision to OMB Circular A–76, "Policies for Acquiring Commercial or Industrial Products and Service needed by the Government". At this hearing, it was learned that this revision proposes drastic measures to dictate conversion to contract for those services with 25 or less employees without requiring cost comparison studies to demonstrate the cost effectiveness of such conversions. The proposal would also mandate that new requirements be satisfied by contracting out without considering if it would be less expensive to do the work with in-house personnel.

The members of the Subcommittee expressed grave concern over the proposals which totally ignore the cost comparison process in determining which VA activities should be converted to contract. They also were concerned that OMB's headlong rush to convert VA hospital services to contract would be a major threat to the quality of medical treatment now being received by our veterans.

To ensure the quality of health care delivered by the Department of Medicine and Surgery, the Hon. Marvin Leath, chairman of the Subcommittee on Housing and Memorial Affairs, introduced H.R. 6315 on May 6, 1982. Twenty-two members of the Committee joined him as cosponsors of the bill. During the mark-up of H.R. 6782, Mr. Leath offered an amendment, adopted by the Committee, concerning contracting out policy in the Department of Medicine and Surgery. The amendment is identical to H.R. 6315.

On March 10, 1982, the Full Committee met to consider its report to the Budget Committee for the First Concurrent Budget Resolution for fiscal year 1983. During the deliberations, the Committee considered the President's proposed cost savings legislation which amounted to $328.5 million and felt that the proposals were too heavily weighted against service-connected disabled veterans—veterans the Committee has always given the highest priority. As a consequence, the Committee did not accept some of the President's proposals and reported to the Budget Committee cost savings totaling about $150 million.

In response to the reconciliation instructions contained in the First Concurrent Budget Resolution for fiscal year 1983 to effect cost savings of $77 million in Budget Authority and Outlays in fiscal year 1983 and $155 million in Budget Authority and Outlays in fiscal year 1984 and fiscal year 1985, the Committee has included several amendments in this bill which, if enacted, will reduce budget authority and outlays by $169.3 million in fiscal year 1983, $185.9 million in fiscal year 1984 and $195.0 million in fiscal year 1985.

BACKGROUND

SERVICE-CONNECTED DISABILITY COMPENSATION

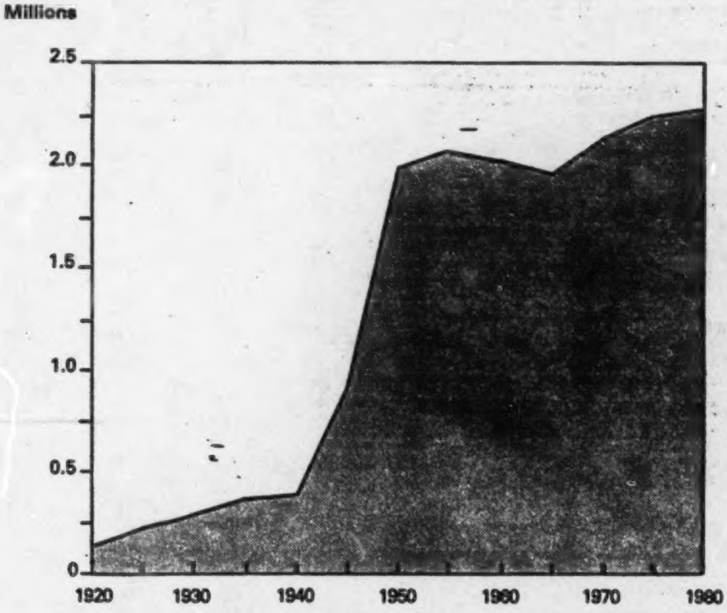
There were 2,276,297 veterans receiving service-connected compensation benefits as of June 1982. The Veterans' Administration expenditure for veterans' service-connected compensation benefits for fiscal year 1983 is estimated to be well over $7 billion.

The following table shows by war period the number of veterans receiving compensation at each of the disability evaluations from 0 to 100 percent and at each statutory level. Also shown are the number of veterans suffering from selected disabilities.

Veterans Administration

Disability Compensation Data

VETERANS RECEIVING COMPENSATION



IB 70-82-3
June 1982

Office of Reports
& Statistics
Statistical Review
& Analysis Division

SERVICE-CONNECTED DISABILITY COMPENSATION INFORMATION

[Persons on the rolls as of end of March 1982]

	Total	Vietnam	Korea	World War II	World War I	Peacetime
Total veterans on rolls	2, 276, 297	573, 381	232, 746	1, 154, 403	23, 424	292, 343
Male	2, 249, 803	566, 749	230, 649	1, 143, 865	23, 123	285, 417
Female	26, 494	6, 632	2, 097	10, 538	301	6, 926
Average age	54. 8	39. 1	53. 2	62. 3	86. 0	45. 4
Combined degree of disability: [1]						
0 compensable	26, 409	857	7, 067	14, 969	323	3, 193
10	887, 400	227, 010	81, 243	451, 184	4, 625	123, 338
20	357, 797	98, 973	35, 799	169, 972	5, 888	47, 165
30	317, 399	73, 616	31, 472	170, 817	3, 319	38, 175
40	186, 831	48, 040	19, 619	97, 509	2, 042	19, 621
50	114, 465	28, 396	11, 360	61, 467	1, 622	11, 620
60	122, 822	27, 104	14, 044	66, 046	1, 833	13, 795
Schedule	81, 714	20, 585	9, 154	42, 492	1, 173	8, 310
Unemployable	41, 108	6, 519	4, 890	23, 554	660	5, 485
70	75, 501	18, 729	8, 406	40, 239	888	7, 239
Schedule	38, 360	11, 669	4, 177	18, 267	447	3, 800
Unemployable	37, 141	7, 060	4, 229	21, 972	441	3, 439
80	38, 646	9, 563	4, 482	20, 685	574	3, 342
Schedule	19, 381	4, 805	2, 033	10, 837	335	1, 371
Unemployable	19, 265	4, 758	2, 449	9, 848	239	1, 971
90	14, 083	4, 347	1, 643	6, 782	153	1, 158
Schedule	6, 125	1, 867	734	3, 045	83	396
Unemployable	7, 958	2, 480	909	3, 737	70	762
100	134, 944	36, 746	17, 611	54, 733	2, 157	23, 697
Total paid 100 percent rate=100 plus total unemployable	240, 416	57, 563	30, 088	113, 844	3, 567	35, 354
Type of disability:						
TB, lung, pleura	46, 453	1, 963	9, 916	26, 394	3, 366	4, 814
Psychological and neurological	464, 511	100, 335	42, 500	261, 499	4, 369	55, 808
Other	1, 765, 333	471, 083	180, 330	866, 510	15, 689	231, 721
Additional awards: [2]						
Aid and attendance:						
Veterans	12, 198	3, 212	1, 800	4, 469	262	2, 455
Spouses	2, 825	154	217	1, 944	306	204
Housebound veterans	6, 879	1, 476	919	3, 143	199	1, 142
Anatomical loss—Limbs	24, 410	6, 634	2, 771	12, 845	266	1, 894
Single	21, 800	5, 437	2, 471	11, 926	254	1, 712
Hand	4, 420	774	495	2, 671	65	415
Foot	17, 380	4, 663	1, 976	9, 255	189	1, 297
Double	2, 499	1, 128	287	897	12	175
Hands	119	37	13	53	2	14
Feet	2, 144	996	249	741	10	148
Hand and foot	236	95	25	103	----------	13
Triple	91	62	10	14	----------	5
Hand and feet	82	56	9	12	----------	5
Hands and foot	9	6	1	2	----------	----------
Quadruple	20	7	3	8	----------	2
Loss of use—Limbs	36, 563	10, 635	4, 830	16, 344	214	4, 540
Single	22, 149	6, 376	2, 454	11, 503	182	1, 634
Hand	9, 594	2, 698	1, 083	4, 923	105	785
Foot	12, 555	3, 678	1, 371	6, 580	77	849
Double	11, 331	3, 387	1, 883	3, 955	28	2, 078
Hands	332	62	59	146	----------	65
Feet	8, 527	2, 482	1, 479	2, 898	21	1, 647
Hand and foot	2, 472	843	345	911	7	366
Triple	734	162	133	303	----------	136
Hand and feet	682	149	123	285	----------	125
Hands and foot	52	13	10	18	----------	11
Quadruple	2, 349	710	360	583	4	692
Special monthly compensation [3]	145, 952	31, 414	22, 791	70, 807	1, 920	19, 020
K	85, 462	22, 060	16, 248	41, 780	1, 138	10, 236
L	6, 076	1, 250	794	2, 852	244	936
L½	2, 463	866	355	892	23	327
M	2, 849	675	415	1, 305	68	386
M½	2, 383	731	386	928	16	322
N	469	106	54	241	7	61
N½	300	99	37	138	----------	26
O	131	38	19	42	----------	32
P	1, 873	637	276	711	12	237
Q	28, 207	697	7, 871	16, 111	201	3, 327
R1	7, 272	2, 421	1, 122	2, 163	10	1, 556
R2	1, 530	355	290	459	----------	426
S	6, 879	1, 476	919	3, 143	199	1, 142
T	58	3	5	42	2	6

See footnotes at end of table.

SERVICE-CONNECTED DISABILITY COMPENSATION INFORMATION—Continued

SERVICE-CONNECTED DISABILITY COMPENSATION INFORMATION

[Persons on the rolls as of end of March 1982]

	Total	Vietnam	Korea	World War II	World War I	Peacetime
Terminations (2d quarter, fiscal year 1982)	16,490	2,730	903	8,205	996	3,656
Death	11,689	829	823	8,025	985	1,027
Other	4,801	1,901	80	180	11	2,629
Dependency:						
Veterans not entitled (0 to 20 percent)	1,271,606	326,840	124,109	636,125	10,836	173,696
Veterans entitled:						
No dependency (30 to 100 percent)	300,661	64,058	31,345	160,592	6,090	38,576
Dependents (30 to 100 percent)	704,030	182,483	77,292	357,686	6,498	80,071
Total dependents	1,185,424	439,455	133,384	439,670	6,609	166,306
Spouses	669,183	166,203	72,760	350,338	6,464	73,418
Children	505,180	269,489	58,799	85,777	145	90,970
Parents	11,061	3,763	1,825	3,555	------------	1,918

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[1] Compensation is paid according to the combined degree of disability determined from the Schedule for Rating Disabilities. The rates of payment are defined in sections 314 and 315, chapter 11, title 38, United States Code. Veterans who have schedular ratings from 60 percent through 90 percent and are judged unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities are classified as individually unemployable and compensated at the 100-percent disability compensation level.

[2] Aid and attendance and housebound awards are granted under the provisions of sections 314 and 315 of chapter 11, title 38, United States Code. Aid and attendance covers those recipients requiring the services of an attendant as a result of incurring severely restrictive disabilities. Housebound covers those less incapacitated but still confined to their immediate surroundings.

[3] Additional payments for various combinations of catastrophic losses as defined in title 38, chapter 11, section 314, paragraphs k through t.

Notes: Data produced on an annual or semiannual basis are not available for every issue of this publication. Vietnam—Vietnam era: August 5, 1964 through May 7, 1975. Korea—Korean conflict: June 27, 1950 through Jan. 31, 1955. World War II—World War II: Dec. 7, 1941 through Dec. 31, 1946. World War I: Apr. 6, 1917 through Nov. 11, 1918. Peacetime—Peacetime, including the post-Vietnam era.

The basic purpose of the disability compensation program, throughout its history, has been one of providing a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation, a veteran must have contracted a disease, suffered a nonmisconduct injury, or aggravated an existing disease or injury in the line of duty during active wartime or peacetime service and have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service connection for a disability rests solely with the Veterans' Administration. This determination is based upon the service medical records or other evidence which may be presented to the Veterans' Administration by the veteran. The law provides that if a veteran had service of 90 days or more during time of war or after December 31, 1946, and develops a chronic or tropical disease to a degree of 10 percent or more within 1 year of his discharge from such service, service connection may be granted by presumption. Service connection may be granted by presumption for active tuberculosis or Hansen's disease which becomes manifest to a degree of 10 percent or more within three years of a veteran's discharge from such service and for multiple sclerosis becoming manifest to a 10 percent degree within 7 years of a veteran's discharge from such service. In cases of prisoners of war, diseases related to nutritional deficiencies which become manifest to a degree of 10 percent or more any time following service or psychosis which becomes manifest to a degree of 10 percent or more at any time after service, may be granted service connection on a presumptive basis.

When a claim for service-connected disability benefits is received by the Veterans' Administration, that agency obtains the service medical records and the issue is generally decided based upon such records. If the service medical records do not establish that the disability was incurred in service, the veteran may submit evidence to substantiate the contention. Generally, this may be statements from persons with whom the veteran served relating knowledge of the veteran's injury or disease. The Veterans' Administration also would consider the question of entitlement to service connection by presumption if the disability is a chronic disease becoming manifest within the prescribed period of time. If a veteran is granted service connection, the percentage of disability is generally based upon the findings of a VA examination. If a veteran with a service-connected disability should feel in some later year that the disability has increased in severity, evidence of this, usually a statement of recent medical treatment, may be presented to the Veterans' Administration to request re-evaluation of the disability. Should the Veterans' Administration deny service connection or deny a request for an increased rating, the veteran may appeal the denial decision to the Board of Veteran's Appeals provided the veteran notifies the agency of his or her disagreement with the decision within one year of the decision date.

The law provides that a case involving a complex or controversial medical issue may be referred to a medical specialist outside of the Veterans' Administration for an advisory opinion. The law also provides that, if service connection for a veteran's disability has been in existence for 10 or more years, service connection may not be severed except in the case of fraud. The law further provides that a disability rated continuously at or above an evaluation for 20 or more years shall not thereafter be rated at a lesser evaluation.

The percentage of disability for a specific disability is assigned by the Veterans' Administration. That agency has established a "Schedule for Rating Disabilities" which is used as the guideline for the measuring of the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to ensure that inflation does not erode the purchasing power of those drawing compensation and DIC benefits.

PERCENT OF INCREASE IN COMPENSATION RATES

From 1917 through 1981, the cumulative increase in the Consumer Price Index is 675.3. During that same period the cumulative increase in the compensation rate paid to the totally and permanently disabled service-connected unmarried veteran is 1,312.5 percent. There follows a breakdown of the percent of increase in compensation rates over those paid on July 1, 1933:

HISTORY OF WARTIME SERVICE-CONNECTED COMPENSATION INCREASES FOR SERVICE-CONNECTED DISABLED VETERANS—APR. 6, 1971 THROUGH OCTOBER 1981

	Percent of increase in compensation rates over those paid on July 1, 1933																					Cumulative increase in Consumers Price Index since 1917	Cumulative increase in compensation since 1917
	1934	1944	1945	1946	1949	1952	1954	1957	1962	1965	1969	1970	1972	1974	1975	1976	1977	1978	1979	1980	1981		
10 percent	11.1	27.8	------	53.3	66.7	75.0	88.9	111.1	122.2	133.3	155.6	177.8	211.1	255.6	288.9	322.2	355.6	388.9	433.3	500.0	544.4	675.3	625.0
20 percent	11.1	27.8	------	53.3	66.7	75.0	83.3	100.0	111.1	122.2	138.9	155.6	183.3	227.8	261.1	288.9	316.7	344.4	388.9	450.0	494.4	675.3	568.8
30 percent	11.1	27.8	------	53.3	66.7	75.0	85.2	103.7	114.8	122.2	140.7	159.3	185.2	229.6	263.0	292.6	318.5	348.2	392.6	455.6	500.0	675.3	575.0
40 percent	11.1	27.8	------	53.3	66.7	75.0	83.3	102.8	113.9	127.8	147.2	166.7	194.4	238.9	272.2	302.8	330.6	361.1	405.6	472.2	544.4	675.3	625.0
50 percent	11.1	27.8	------	53.3	66.7	91.7	102.2	122.2	137.8	151.1	171.1	200.0	231.1	280.0	317.8	351.1	380.0	415.6	466.7	546.7	628.9	675.3	720.0
60 percent	11.1	27.8	------	53.3	66.7	91.7	101.9	122.2	137.0	151.9	172.2	201.9	235.5	290.7	337.0	372.2	403.7	440.7	494.4	579.6	664.8	675.3	760.4
70 percent	11.1	27.8	------	53.3	66.7	91.7	101.6	122.2	136.5	155.6	176.2	206.4	236.5	296.8	344.4	379.4	411.1	449.2	503.2	588.9	727.0	675.3	830.4
80 percent	11.1	27.8	------	53.3	66.7	91.7	101.4	122.2	136.1	158.3	179.2	209.7	240.3	301.4	350.0	386.1	418.1	455.6	511.1	598.6	738.9	675.3	843.8
90 percent	11.1	27.8	------	53.3	66.7	91.7	101.2	121.0	135.8	158.0	179.0	208.6	239.5	301.2	349.4	385.2	417.3	455.6	511.1	598.8	738.3	675.3	843.1
100 percent[1]	11.1	27.8	------	53.3	66.7	91.7	101.1	150.0	177.8	233.3	344.3	400.0	450.0	548.9	627.8	685.6	737.8	798.9	887.8	1028.9	1155.6	675.3	1312.5
Revised statutory awards under subparagraphs below			40.0	68.0	68.0	88.0	88.0	68.0	88.0	88.0	88.0	88.0	88.0	108.0	108.0	124.0	124.0	124.0	124.0	148.0	148.0	675.3	148.0
l			33.3	60.0	60.0	77.3	86.0	106.0	126.7	166.7	233.3	273.3	310.7	384.7	442.7	486.0	524.7	570.0	636.0	741.3	835.3	675.3	835.3
m			34.3	61.1	61.6	78.9	88.0	105.1	122.9	157.1	214.3	252.0	287.4	357.1	412.0	453.1	489.7	532.6	595.4	694.9	784.0	673.3	784.0
n			32.5	59.0	59.0	76.5	85.5	100.5	120.0	162.5	212.5	250.0	285.0	354.5	409.0	449.5	486.0	529.0	591.5	690.5	779.0	675.3	779.0
o			20.0	44.0	44.0	60.0	68.0	80.0	110.0	140.0	180.0	213.6	244.8	306.8	355.6	392.4	428.8	463.2	518.8	607.2	686.5	606.3	686.4
p				20.0	20.0	33.3	40.0	50.0	75.0	100.0	133.3	161.3	187.3	239.0	279.7	310.3	337.3	369.3	415.7	489.3	555.3	417.0	555.3
q							0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	248.9	0
r									33.3	66.7	100.0	124.0	146.7	191.3	226.0	252.0	275.3	302.7	342.7	406.0	462.7	228.7	462.7
s									9.4	32.1	69.7	90.2	109.1	146.8	176.2	198.5	218.1	241.5	275.5	329.1	377.0	228.7	377.0
Clothing														0	16.67	26.7	35.3	45.3	60.0	82.7	103.3	122.4	103.3
t																			9.7	25.1	39.4	40.2	39.4

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[1] Made retroactive to Apr. 6, 1917.

Dependency and Indemnity Compensation for Survivors of Veterans Who Have Died of Service-Connected Causes

Currently there are 249,457 surviving spouses and 72,997 children receiving dependency and indemnity compensation (DIC). These are the survivors of more than 352,399 veterans who have died of service-incurred causes.

Over $1.7 billion is expected to be paid in fiscal year 1983 to these survivors.

Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly dependency and indemnity compensation.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children. Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay-grade and range from $415 monthly for the surviving spouse of an E–1 to $1,061 monthly for the surviving spouse of an O–10. Surviving spouses are entitled to an additional $48 monthly for each child.

There is an additional allowance of $125 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another person.

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but who, due to disability, are permanently housebound may be granted a special allowance of $62 monthly in addition to the DIC rate otherwise payable.

If there is no surviving spouse receiving dependency and indemnity compensation benefits but there is a surviving child, the child is entitled to $210 monthly with additional benefits for other children.

When a service-connected disability is found to be the principal or contributory cause of death, such death is considered to be service-connected. These determinations are made on a very liberal basis. For example, there are disabilities which by their very nature are so overwhelming that eventual death can be anticipated irrespective of co-existing conditions. Even though such a disability is non-service-connected and is the primary cause of death, consideration is given to whether the co-existing service-connected conditions were of such severity as to have been a material influence in accelerating death. Where death has been so accelerated, it will be considered service-connected. The death of any veteran whose service-connected disabilities were the primary cause of death or contributed materially in producing death would, of course, render the survivor basically eligible for service-connected death benefits.

The same benefits provided for those entitled to DIC are also payable to surviving spouses or children of certain veterans whose deaths are not service-connected but who, at death, had been in receipt of total (100 percent) ratings for service-connected disabilities. It is necessary for entitlement under this provision that the 100 percent rating have been in effect continuously for at least 10 years at death or continuously since service and for at least 5 years. A surviving spouse must have been married to a veteran for at least 2 years at the time of death before entitlement exists.

The following table shows by war period the number of surviving spouses and children of service-connected veterans in receipt of survivor's death benefits:

ACTIVE DEPENDENCY AND INDEMNITY COMPENSATION CASES

Entitlement	DIC beneficiaries		
	Total	Widows	Children
Total	322,454	249,457	72,997
World War I	28,000	27,102	898
World War II	121,515	113,511	8,004
Korean conflict	28,750	24,506	4,244
Vietnam era	89,203	43,753	45,450
Spanish/American War	111	96	15
Mexican border period	1	1	
Indian War			
Civil War	3	1	2
Regular establishment	54,871	40,487	14,384

Source: Extract from RCS 21–14, Veterans' Administration (May 1982).

Historically, these benefits for survivors have been increased whenever there has been an appreciable increase in the cost-of-living index.

ACTION BY THE CONGRESS DURING THE PAST 7 YEARS

Fiscal year 1982—Public Law 97–66—$967.3 million

The Act provided an average 11.2 percent increase in the basic rates of service connected compensation—with veterans with greater disabilities receiving a larger proportionate share of the increase. Statutory awards relating to more serious disabilities, other than the "K" award, and DIC rates were increased by 11.2 percent.

In addition, it (1) increased the statutory award designation payable to veterans who suffer the service-connected loss or loss of use of both upper extremities by one full step; (2) increased the automobile assistance allowance from $3,800 to $4,400; (3) extended eligibility for the automobile adaptive equipment in certain cases to service-connected disabled veterans suffering from ankylosis of the hip or knee; (4) increased SGLI coverage from $20,000 to $35,000; (5) permitted GI insurance to be paid in a lump sum when there is no designated mode of payment; (6) permitted the VA to guarantee graduated payment home loans; (7) extended maximum terms of guaranteed loans for mobile home purchases; (8) increased the specially adapted housing assistance grant from $30,000 to $32.500; (9) prevented certain veterans from losing nonservice-connected pension while undergoing rehabilitation at a VA medical facility; (10) provided headstones or markers in cemeteries for veterans whose remains were not recovered; (11) prevented the VA from using appropriated medical funds to conduct cost comparison studies; (12) required the VA Administrator to include any consolidation plans in his annual budget; and (13) clarified congressional intent on appropriated funding levels and personnel ceilings.

Fiscal year 1981—Public Law 96–385—$1,058.1 million

The Act provided a 13 percent rate increase in compensation for those disabilities rated 10 to 40 percent. Cases rated 50 percent or more disabled were increased by 14.3 percent. Statutory awards relating to more serious disabilities (other than the "K" award) and DIC rates were increased by 14.3 percent. In addition, it (1) expanded the specially adapted housing benefit program by $5,000 to certain service-connected veterans; (2) increased the maximum VA loan guaranty from $25,000 to $27,500 for a conventional home or condominium and from $17,500 to $20,000 the guaranty for a mobile home, mobile home lot or both; (3) entitled veterans to refinance their VA home loans if mortgage funds become available at lower interest rates; (4) provided for headstones and markers for certain close relatives of veterans buried in State veterans' cemeteries and other miscellaneous provisions.

Fiscal year 1980—Public Law 96–128—$669.7 million

The Act provided a 9.9 percent increase in the compensation and DIC rates effective October 1, 1979, except for the "K" award which became effective October 1, 1980. In addition, a new basic entitlement was established permitting payment of aid and attendance benefits to a new group of severely disabled veterans upon an affirmative showing of and demonstrated need for the regular aid and attendance of another person.

Fiscal year 1979—Public Law 95–479—$520.4 million

The Act provided a 7.3 percent increase in the compensation and DIC rates effective October 1, 1978. In addition, the Act: (1) provided additional compensation to veterans who suffered the loss or loss of use of three extremities; (2) established a new statutory award of $175 monthly to certain veterans suffering from the service-connected loss or loss of use of an extremity ratable at not less than 40 percent and who subsequently suffered the non-service-connected loss or loss of use of the paired extremity at a level ratable at no less than 40 percent; (3) reduced from 50 percent to 30 percent the rate of disability required before additional compensation for dependents is payable to veterans; (4) provided dependency and indemnity compensation entitlement to survivors if the veteran immediately before death had suffered total service-connected disability for 10 or more years or continuously since discharge for not less than 5 years. Provided, for the first time, additional dependency and indemnity compensation to a surviving spouse who, because of disability, is permanently housebound; (5) provided for a second level of aid and attendance benefits for certain catastrophically disabled veterans needing a higher level of care; (6) clarified the intent of the Congress to assure exemption from taxation of compensation paid in lieu of military retired pay; (7) increased the service-connected death burial benefit from $800 to $1,100; and (8) increased the automobile assistance allowance payable on a one-time basis to certain severely disabled veterans from $3,300 to $3,800.

Fiscal year 1978—Public Law 95–117—$312.5 million

The Act provided a 6.6 percent increase in compensation and DIC rates to service-connected disabled veterans and eligible dependents.

In addition, it provided entitlement to a grant, not to exceed $25,000, as assistance in purchasing specially adapted housing for certain veterans who, because of the service-connected loss or loss of use of one lower extremity and one upper extremity which affects the function of balance or propulsion, are precluded from locomotion without aid of braces, crutches, canes or a wheelchair.

Fiscal year 1977—Public Law 94-433—$388 million

The Act provided for an 8 percent increase in the rates of compensation and DIC. In addition, the Act provided that the VA would pay increased compensation to the disabled veteran rated 50 percent to 100 percent who has a spouse who is a patient in a nursing home or who is so helpless as to need regular aid and attendance. It also provided for an increase in mortgage protection life insurance available for certain severely disabled veterans from $30,000 to $40,000. The measure also authorized the VA to pay the cost of transporting the remains of deceased, service-disabled veterans to a national cemetery for burial and extended eligibility for VA assistance in the purchase of automobiles and necessary special adaptive equipment to certain disabled veterans who served from September 16, 1940. The benefit had been limited to those with service in World War II or thereafter.

Fiscal year 1976—Public Law 94-71—$490 million

Increased by 10 percent the rates of compensation payable to service-connected disabled veterans rated 10 to 50 percent. Cases rated 60 percent or more disabled were increased by 12 percent. Statutory awards, relating to more serious disabilities, were increased by 12 percent.

ADMINISTRATION'S BUDGET REQUEST FOR FISCAL YEAR 1983

When the Administration submitted its budget request to the Congress in February, it contained an 8.1 percent cost-of-living increase in rates payable for service-connected compensation and DIC.

The Agency's views and recommendations are included later in this report. In his transmittal letter to the Speaker dated February 19, 1982, the Administrator of Veterans' Affairs, Robert P. Nimmo, stated:

> The Veterans Administration has periodically recommended cost-of-living increases in compensation and DIC benefits to assure that our programs remain responsive to changing economic conditions. We support increases designed to offset inflation's erosion of the purchasing power of these benefits. We therefore propose a percentage increase consistent with the June 1, 1982, indexed cost-of-living adjustment in Social Security and VA pension benefits, an increase the Administration currently estimates will be 8.1 percent.

In April, the Administration submitted its economic budget revisions and these reflected an anticipated lower inflation factor of 7.4 percent. The Committee on the Budget recommended an increase of 7.4 percent and new entitlement authority is contained in the First Concurrent Budget Resolution for this purpose, provided this Committee report legislative cost savings contained in the First Concurrent Budget Resolution. The Committee must report legislation that would provide for savings of $77 million in the next fiscal year. Cost savings proposals are contained in the bill as reported that will satisfy the reconciliation instructions contained in the Budget Resolution relating to this Committee.

This Committee, therefore, is recommending the same rate of increase for the coming fiscal year—7.4 percent—as that proposed by the Administration and the Budget Committee.

Additionally, the Administration recommended $328.5 million in legislative "cost savings" for fiscal year 1983. This Committee could not accept certain proposals which, if enacted, would have had a severe impact on service-connected veterans with serious disabilities and this Committee recommended that the Budget Committee restore some of the proposed cuts. The Committee did, however, accept approximately, $150 million of the proposed benefit reductions. The majority of this Committee's recommendations were accepted and under the First Concurrent Budget Resolution, this Committee was directed to reduce entitlements by $77 million in fiscal year 1983, and $155 million in fiscal year 1984 and $155 million in fiscal year 1985.

EXPLANATION OF H.R. 6782, AS REPORTED

TITLE I

Veterans' disability compensation benefits

The basic compensation rates, other than the "K" award would be increased by 7.4 percent. The additional compensation provided for dependents, which is paid to veterans 30 percent or more, would also be increased by 7.4 percent as would the clothing allowance.

Survivors' dependency and indemnity compensation benefits

Dependency and indemnity compensation (DIC) for spouses of veterans who die from service-connected causes would be increased by 7.4 percent. The new basic monthly rates would range from $445 to $1,139 according to the pay grade of the deceased veterans. Additionally, housebound benefits, aid and attendance benefits for certain qualified surviving spouses and additional amounts payable to spouses for each child of the veteran under the age of 18 would be increased by 7.4 percent.

Rates of dependency and indemnity compensation for children

Dependency and indemnity compensation (DIC) payable to children of veterans who die of service-connected causes where there is no surviving spouse would be increased by 7.4 percent.

Rates of supplemental dependency and indemnity compensation for children

An increase of 7.4 percent would be provided for the additional rate payable for a helpless child, a widow with a helpless child and a child between the ages of 18 and 22 pursuing a course of higher education.

TITLE II

Eligibility of senior reserve officers' training corps participants injured during summer military training camp for Veterans' Administration compensation

The reported bill would provide entitlement to VA compensation to members of the Senior Reserve Officers' Training Corps, if during military training camp, a participant suffers a disabling injury.

Current law provides DIC to survivors of Senior ROTC members if these individuals are fatally injured as a result of training. However, if the ROTC member suffers injury, he or she is not eligible to receive benefits from the Veterans Administration. The individual is only eligible for Federal Employees Compensation under section 8104 of title 5, U.S. Code, which is substantially lower than VA compensation. The Committee believes that these individuals should receive compensation and medical benefits from the VA for any injury received while under military orders.

Increase in compensation rate for blinded veterans

The reported bill would increase the compensation rate for certain totally blinded veterans.

Totally blinded veterans without light perception would be classified under subsection "n" of section 314 instead of subsection "m" where they are now rated. This would equalize benefits for totally blinded veterans without light perception with those who have suffered the enucleation of the eyes or deformity or scarring. Subsection "n" has historically required the anatomical loss of both eyes. This provision would extend "n" to totally blinded veterans without light perception since they have suffered "total loss of use of" and are as equally blind as those individuals who are suffering from disfigurement. Monthly benefits after the cost-of-living adjustment would be increased from $1,661 to $1,888 should this provision be enacted.

Compensation would also be increased for veterans who suffer from bilateral blindness in conjunction with certain additional disabilities. This provision would increase by a half-step under subsection "p" of the rating schedule compensation to veterans who suffer from service-connected blindness in both eyes (5/200 visual acuity or less) and who additionally have incurred the service-connected loss or loss of use of one hand or one foot. This increased compensation is considered to be warranted in view of the fact that the loss of an extremity has a greater impact on a blinded veteran than on an individual who has not lost his or her sight. The average increase would be approximately $112 monthly.

It is the intention of the Committee that for those veterans who have the loss or loss of use of a hand or a foot in addition to blindness that the award under section 314(k) of Title 38, United States Code, be payable in addition to the elevation to the next intermediate rate provided by the reported bill.

Correction of technical error with respect to entitlement of dependency and indemnity compensation

A technical amendment would add "or was entitled to receive" after "was in receipt of" in section 410(b)(1) 38 U.S.C.

Historically, dependency and indemnity compensation has been payable to survivors of veterans who have died of service-connected causes. The theory upon which Congress has erected the obligation to pay these benefits is to partially fill the void of the financial support lost as the result of the service-connected death.

Public Law 95–479 effective October 1, 1978, extended DIC entitlement to survivors of certain veterans if the veteran immediately before death suffered total service-connected disability for 10 or more years or continuously since discharge for not less than 5 years. The Congress enacted this liberalization as a result of oversight hearings which demonstrated the fact that although many service-connected disabilities do not by themselves contribute to death, they may be prevalent for many years, creating extraordinary hardships and that the Government also owes an obligation to the veterans' survivors.

The VA General Counsel previously issued an opinion (number 2–81) ruling that the non-receipt of compensation at the total rate for the required ten-year period, regardless of reason, could not establish entitlement to benefits under 38 U.S.C. 410(b). In testimony delivered before the Senate Veterans' Affairs Committee on July 13. 1982, on the provisions of S. 2709 VA spokesmen said:

> This proposal would extend eligibility to survivors of veterans whose total ratings were in effect for a lesser period because of VA error.
>
> Mr. Chairman, we commented adversely on H.R. 6039, the counterpart measure. Since that time, we have reviewed our position in the light of the remedial purpose sought to be achieved. We have no wish to deprive otherwise eligible survivors by reason of our mistakes. Accordingly, we favor the enactment of S. 2709.

It would appear clear that such an admission of error by the Veterans Administration could be readily curable under 38 U.S.C. 210(c) without resorting to additional legislation. However, since the VA refuses to correct its own error in this instance, Congress has no alternative but to legislate for the sake of equity.

Administrative improvements to life insurance programs

The bar against payment of SGLI and VGLI proceeds would be removed in the event a veteran's claim is filed more than four years after the insured's death. The bill would also clarify that such proceeds may not escheat to a State.

A legislative proposal was introduced at the request of the Administration. In his transmittal letter of March 24, 1982, to the Speaker, Robert P. Nimmo. Administrator of the Veterans' Administration gave the following explanation in support of his legislative request.

> When a SGLI or VGLI claim is not filed within four years of the insured's death, present section 770(c) provides that the proceeds shall "escheat" to the SGLI revolving fund established under section 769(d)(1). The legislative history of a comparable provision added in 1962 to the Federal Employees' Group Life Insurance (FEGLI) program indicates that Congress intended to prevent unclaimed FEGLI proceeds from escheating to the insured's State of domicile, a purpose that

is applicable to unclaimed SGLI-VGLI proceeds as well. However, nothing in the legislative history of section 770(c) indicates that Congress specifically intended to bar the payment of proceeds to otherwise entitled claimants whose claims are not filed within the four-year period. This bill, by amending section 770(c) to delete the language pertaining to escheat, from which a bar to payment of such claims is implied, would permit payment regardless of when the claim is filed, and thus make the SGLI-VGLI program consistent in this regard with the National Service Life Insurance (NSLI) and United States Government Life Insurance (USGLI) programs.

Both the NSLI and USGLI programs also specifically prohibit the escheat of NSLI and USGLI proceeds to a State. Otherwise such an escheat could occur, for example, if the insured dies without any relatives, or if a named beneficiary without any relatives dies prior to payment. The bill adds specific language to section 770 to prohibit the escheat of SGLI-VGLI proceeds and, where the proceeds are to be paid to an estate, to require affirmative evidence that the end result will not be an escheat.

There are no costs associated with the draft bill, which would be effective October 1, 1982.

Burial flags

The reported bill would authorize the Administrator to furnish a flag to the next of kin of persons buried in a national cemetery under section 1002(6) of Title 38, United States Code.

Section 901 of 38 U.S.C. stipulates that the Administrator shall furnish burial flags only to certain veterans who served in the Armed Forces (i.e., all wartime veterans, peacetime veterans with service after January 1955; members killed in action; etc.). Historically, the burial flag has been considered to be an honor bestowed on deceased veterans in recognition of their service to this country and is furnished whether or not a veteran is buried in a national cemetery.

Public Law 93–43, which became effective June 18, 1973, extended the privilege of being buried in a national cemetery to non-veterans in certain instances so designated by the Administrator. This would usually involve an individual who performed outstanding and meritorious service to this nation. This provision, therefore, would authorize the Administrator to provide a burial flag to any distinguished individual so honored by burial in a national cemetery.

Burial benefits for certain veterans whose remains are unclaimed

The reported bill would reinstate the $300 non-service-connected burial allowance for wartime veterans whose remains are unclaimed and whose estates do not contain sufficient resources to defray the cost of the funeral and burial of the deceased.

Under the provisions of Public Law 97–35, the Omnibus Reconciliation Act of 1981, the $300 non-service-connected burial allowance was terminated for many veterans. Exceptions to this discontinuance were veterans who were drawing VA pension or compensation benefits at time of death or who died in a VA facility. No action was taken affecting the $150 plot allowance which continues to be available for any wartime veteran who served honorably and who is not buried in a National Cemetery.

Following the adoption of the Reconciliation Act last year, the press publicized accounts of many bodies being held in county and city morgues when no funds or next of kin were available to provide a proper burial. Investigation of this situation revealed that the press reports were greatly exaggerated. However, Committee investigation revealed that some cases did exist and action is warranted to make certain that no wartime veteran is buried in a pauper's grave.

It was never intended that destitute veterans be deprived of a proper burial. This provision corrects the oversight which occurred by the enactment of Public Law 97–35.

Burial benefits for persons dying in Veterans' Administration facilities

The bill would also clarify Congressional intent that the $300 burial allowance be paid when a veteran dies in a contract VA nursing home at VA expense.

The provisions of section 903(a), title 38, U.S.C. authorize payment of the $300 non-service-connected burial allowance whenever death occurs in a VA facility to which the deceased was properly admitted. For almost 20 years, the VA has followed an interpretation by its General Counsel that contract nursing care constituted care in a VA facility for purposes of eligibility for burial benefits.

Public Law 97–35 provided that the benefit would no longer be payable unless the deceased veteran was in receipt of compensation or pension or unless he died in a VA facility. The Congress, relying on the long-standing interpretation of current law on this issue, did not place any limit on deaths in either a VA owned facility or on a contract facility.

Earlier this year, the VA General Counsel issued an opinion, reversing an earlier opinion issued almost twenty years ago, that death in a contract nursing home did not constitute death in a VA facility for purposes of establishing eligibility for burial benefits. In his latest opinion, he did not consider the issue of congressional ratification of the earlier decision, manifested by legislation enacting a number of amendments and restrictions placed on payment of burial benefits.

There follows a letter from the General Counsel of the Veterans' Administration. The Committee does not concur with the opinion of the General Counsel in this case and has no alternative but to seek legislative remedy.

VETERANS ADMINISTRATION,
OFFICE OF GENERAL COUNSEL,
Washington, D.C.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to furnish, in response to your letter of June 21, 1982, the following explanation of our opinion that 38 U.S.C. § 903(a) does not authorize payment for burials of veterans whose deaths occur in contract nursing homes to which they were admitted under authority of 38 U.S.C. § 620.

The operative words of section 903(a) are these: "Where death occurs in a Veterans Administration facility to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 610 or 611(a) of this title . . . [burial benefits shall be paid]."

Because this provision authorizes payment for burials of veterans who received care in VA facilities under section 610 or 611(a), it does not, by its terms, countenance burial payments for section 620 admissions to non-VA facilities.

The literal language of a statute, of course, is the primary and most helpful indicator of legislative intent. The statutory language is interpreted in light of and amplified by the provision's legislative history. E.g., *Lange* v. *United States*, 443 F. 2d 720 (D.C. Cir. 1971). Here the historical development of the law does not offer any suggestion that Congress sought to include the section 620 admissions for purposes of burial benefits.

Section 620 dates only to August 19, 1964, its genesis being section 2(a) of Pub. L. No. 88–450. At that time, section 903(a)'s burial-benefits authorization made no reference to nursing home admissions whatsoever; it provided burial benefits only for deaths during proper admissions "for hospital or domiciliary care under authority of section 610 or 611(a) of this title . . .". 38 U.S.C. § 903(a) (1960). Thus, it obviously cannot be said that with the addition of the authority to transfer VA or military hospital patients to contract nursing homes, Congress thereby intended to create burial eligibility under 903(a). A careful review of the history of the Act of August 19, 1964, does not suggest otherwise. S. Rep. No. 1293, 88th Cong., 2d Sess. (1964); H.R. Rep. No. 680, 88th Cong., 1st Sess. (1963).

Not until 1976 was section 903(a) amended to include death during nursing home admissions. Sec. 202, Pub. L. No. 94–581 (October 21, 1976). Had Congress so intended, it would seem that was the propitious opportunity for referencing the 620 admissions. That was not done, and the legislative history does not indicate that result was intended. In its section-by-section analysis of the act, the Senate Committee on Veterans' Affairs explained the addition was to extend the burial benefit "to VA nursing home beneficiaries." S. Rep. No. 1206, 97th Cong., 2d Sess. 162 (1976). Plainly, admissions under section 620 are not to VA nursing homes.

Nonetheless, a former VA General Counsel rendered a memorandum opinion dated November 5, 1964, that funeral and transportation costs could be paid based upon 620 admissions. (Note that this was even before section 903(a) included reference to nursing home admissions.) I have enclosed a copy of this opinion, which contains no analysis of the sequential development of sections 903 and 620 and, I submit, does not persuasively justify how section 620 facilities may be considered VA facilities as required by 903(a).

It is not altogether clear that this unpublished 1964 opinion impelled the revision in VA regulations responsible for the current confusion. The current language of 38 C.F.R. § 3.1605 (authorizing burial payments for those who die while in a ". . . nursing home to which he or she was properly admitted under authority of the Veterans Administration") dates only to February 27, 1967. 32 Fed. Reg. 3743 (Mar. 4, 1967). The regulation makes no specific reference to section 620 admissions, and can be faulted only for its failure to specify payments may be made only for admissions under 610 or 611(a) as required by 903(a). This may well have been simply an inadvertent omission.

You asked why this office did not consider that Congress implicitly ratified the 1964 General Counsel opinion. We have argued in appropriate cases that congressional failure to legislatively overturn an agency's interpretation of statute is tantamount to sanctioning it. However, where a statute is plain, even subsequent re-enactment of the identical provisions after an agency interpretation at odds with its plain meaning does not constitute adoption of the agency's construction. *March* v. *United States*, 506 F.2d 1306 (D.C. Cir. 1974).

Furthermore, failure to legislatively overturn an agency interpretation does not amount to its ratification unless it can be shown that the attention of Congress was specifically directed to the matter. *Plasterer's Local Union No. 79* v. *N.L.R.B.*, 440 F.2d 174 (D.C. Cir. 1970). In the beneficiary travel opinion you cite, we were able to rely upon relatively clear expressions of congressional concern and intent. Here, I believe it would be wrong to conclude that an unpublished, internal Agency opinion in 1964 and a 1967 regulation change that is inaccurate only in its vagueness focused congressional attention on so fine an issue affecting so few persons. There have been no supportive congressional pronouncements during the numerous subsequent revisions of section 903(a), and even in 1976, when nursing home admission cases were added, the only indication given was that VA-facility admissions were to be covered. The VA-facility definition at section 601(4) of title 38 has itself been the subject of numerous amendments and presently includes certain private facilities, but not section 620 nursing homes. Absent any showing that the precise issue of burial-benefits eligibility came to the attention of the Congress and the old interpretation was favorably viewed, the rule of legislative ratification does not obtain. *Association of American Railroads* v. *I.C.C.*, 564 F.2d 486 (D.C. Cir. 1977); *D.C. Federation of Civil Associations* v. *Airis*, 391 F.2d 478 (D.C. Cir. 1968); see *Fletcher* v. *Warden, U.S. Penitentiary, Leavenworth*, 641 F.2d 850 (10th Cir. 1981).

Finally, please be assured we did not consider the actions of Congress, in limiting burial benefits under Public Law 97–35, as having any bearing whatsoever on this issue.

Again, thank you for this opportunity to further explain our interpretation.

Sincerely yours,

JOHN P. MURPHY, *General Counsel.*

Superintendents of national cemeteries under the jurisdiction of the Secretary of the Army

The proposed measure would also provide that the position of superintendents of national cemeteries administered by the Department of the Army need not be restricted to only those who have been disabled in the line of duty.

Prior to 1973, the Department of the Army administered 84 national cemeteries and required that each superintendent meet the service-connected disability requirement—a requirement which has been in effect since 1948. When 82 of the above cemeteries were transferred to the Veterans Administration under the provisions of the National Cemeteries Act of 1973, the Act removed the requirement that superintendents for national cemeteries administered by the Veterans Administration be disabled veterans. It continued the disability requirement, however, for superintendents of Army National Cemeteries.

In his transmittal letter to the Speaker dated July 6, 1981, recommending that current law be modified, William R. Gianelli, Assistant Secretary to the Army (Civil Works) said:

> Superintendents of Army National Cemeteries must meet appropriate United States Civil Service qualification standards. Under the current law and Civil Service requirements, a qualified applicant for those positions must meet the disability requirement and have three years of specialized experience in the operational management and administration of a cemetery. The Veterans' Administration requires only the three years of specialized experience.
>
> The position of Superintendent of Arlington National Cemetery is a particularly desirable appointment for those career Civil Service personnel having the required specialized experience. In addition to the managerial requirements, the Superintendent of Arlington National Cemetery, as the representative of the Secretary of the Army, must coordinate the many ceremonies held at the Tomb of the Unknown Soldier, deal tactfully with the public, including the four million visitors each year, and host the President and other dignitaries of the United States and many foreign countries. The selection of a superintendent for Arlington National Cemetery previously has been made from the best qualified disabled veteran candidates. As the sources of candidates for superintendent positions of Army National Cemeteries is primarily superintendents of Veterans' Administration cemeteries (who do not have the disability prerequisite), the Army anticipates extreme difficulty in filling future vacancies for the superintendent positions at Arlington and the Soldiers' Home National Cemeteries. The proposed legislation would enable the Army to avoid that difficulty.

Enhance the quality of care for veterans in medical facilities operated by the Veterans' Administration

The reported bill would limit the Office of Management and Budget's authority to require the Veterans Administration to contract out current services performed by employees of the Veterans Administration.

The Committee considers this provision is necessary in view of an OMB Task Force proposed revision to OMB Circular A–76 which mandates conversion to contracts for those services with 25 or less employees without requiring cost comparison studies to ascertain the cost effectiveness of such conversions. Additionally, the revision would also mandate that new requirements be satisfied by contracting out without considering if it would be less expensive to do the work with in-house personnel. This is a significant departure from the provisions originally contained in the A–76 Circular which set up a cost comparison process as a basis to determine which VA activities should be converted to contract.

The Committee is of the opinion that Section 213 of Title 38, United States Code provides the Administrator with adequate authority to contract for services which, based on his judgment of the individual or local situation, warrant conversion to contractor services. The mandated broad application of OMB Circular A–76 does not permit this consideration and could have a deleterious effect on the quality of health care delivered at VA hospitals.

The reported bill would require that all services of a medical facility under the jurisdiction of the Administrator be performed by VA employees unless the Administrator determines that such facility is not capable of carrying out the activity in house or that contracted services would enhance the quality of medical care for eligible veterans. This provision will reaffirm Congressional policy that VA services not be contracted out unless the Administrator, after giving proper consideration to the recommendation of the Chief Medical Director, determines it is in the best interests of the veteran and the Agency to do so. High quality health care for veterans continues to be one of the Committee's highest priorities.

TITLE III

Reconciliation budget savings provisions

The First Concurrent Budget Resolution recently adopted by the Congress contained instructions to the Committee on Veterans' Affairs directing the Committee to report changes in laws that would reduce veterans' entitlements by $77 million in Budget Authority and Outlays in fiscal year 1983. In addition, the Committee was instructed to reduce entitlements by $155 million in both Budget Authority and Outlays for fiscal years 1984 and 1985.

In order to conform with such instructions, the Committee is proposing several changes in existing law that, if enacted, would realize savings totalling $169.3 million in Budget Authority and in Outlays in fiscal year 1983; $185.9 million in fiscal year 1984; and $195 million in fiscal year 1985.

If enacted, the "savings" provisions contained in Title III of the bill and the rounding down of compensation checks set out in Title I would satisfy the reconciliation instructions contained in the first Concurrent Budget Resolution.

The reported bill contains the following cost-savings provisions:

User fee on VA home loans

The bill would authorize the Administrator to charge a 0.5 percent user fee to veterans receiving a VA guaranteed home loan. The average fee would be about $285. With an exemption for service-connected veterans drawing compensation benefits under Chapter 11 of Title 38, United States Code, savings would be approximately $89.6 million in fiscal year 1983; $99.8 million in fiscal year 1984; and $104.1 million in fiscal year 1985.

Imposing the user fee was proposed by the Veterans Administration in a letter to the Speaker dated February 17, 1982. The Administrator said:

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are, nevertheless, mindful that the costs to the taxpayers of operating the program and paying claims on the approximately 3.7 percent of the loans resulting in foreclosure are significant. Since the Loan Guaranty program provides a unique benefit for a select group of beneficiaries, we believe it is reasonable that this group bear a portion of the cost of providing the benefit through a modest, one-time fee.

Delay payment of compensation and pension benefits until first full month of entitlement

Currently, most new compensation awards are paid from the effective date of the award. By postponing the start of the payment period (but not the effective date itself, for purposes of other VA rights) until the first day of the next full month, savings in the compensation account would be $9 million in fiscal year 1983. In pension, the savings would be $19.8 million. This is a VA proposal. In his transmittal letter of February 19, 1982, to the Speaker, the Administrator, in support of this legislative initiative, said:

> Because the adjudicative process in almost all cases takes a reasonable amount of time, it is routine for the beneficiary's first payment to contain a retroactive component. For example, if a veteran is discharged on July 15 and files a compensation claim on August 15, even the promptest adjudication of the claim cannot occur overnight; assuming that extensive development is not required, the veteran may received his first check by October 1 but it will be retroactive to July 16.
>
> This proposal would simply defer commencement of the payment period until the first day of the month following the month in which the award itself became effective. This provision would not affect the effective date of the award for any purpose, or the special payment under section 3110 of title 38, United States Code, to certain surviving spouses. In the sample cited above, payment would be retroactive to August 1, but the veteran's service-connected disability status would be established as of July 16, and the veteran's rating would relate back to that date, as would eligibility for any benefit derived from service-connected status. Similarly, if a veteran's death occurred on March 15, the survivor's DIC eligibility would relate back to the first day of March (if claim is filed within one year) but payment would commence April 1. However, in the event the veteran's payment for the month of March would have been greater than the survivor's monthly DIC payment, the survivor would receive the higher amount, as under current law.

Enactment of this provision would result in a $10 million savings in compensation in fiscal year 1984 and $10.4 in fiscal year 1985. Pension savings are estimated at $20.7 million in fiscal year 1984 and $22 million in fiscal year 1985.

End-of-year rule

Under present law, the effective date for a reduction of compensation and pension benefits occasioned by a change in dependency status is the end of the year in which the change occurred. By moving the date to the end of the month, savings in fiscal year 1983 would be $1.4 million for compensation and $1.8 million for pension. Savings in fiscal year 1984 would be $1.4 million for compensation and $2.1 million for pension. Savings in fiscal year 1985 would be $1.4 million for compensation and $2.5 million in pension.

On February 19, 1982, the Administrator of Veterans' Affairs in proposing this change said:

> Under current law, this date is the last day of the calendar year. This means that a veteran or survivor may receive benefits intended for the support of dependents for as many as eleven months after the dependent has died or the beneficiary is no longer legally responsible for the dependent's support. This is unreasonable and inconsistent with other Title 38 provisions relating to reductions and discontinuances.

Issue pension checks in even dollars

Pension benefit checks would be rounded down to the next lower dollar. Full year savings would be $10.4 million in fiscal year 1983. The Administrator of the Veterans' Administration proposed this change on February 19, 1982 as follows:

> Under current law, the VA through its administrative machinery certifies each month to the Treasury Department the exact amounts to be paid to its beneficiaries, the Treasury makes the actual disbursements. Many, if not most, pension payments are made in unrounded amounts. This provision would grant authority to the VA to round pension benefit payment amounts to the next lower dollar. For example, if the calculated amount to be paid is $60.39, payment would actually be certified and made (by check or electronic transfer) for $60.00. The savings from this proposal, effective July 1, 1982 would be approximately $10.8 million in fiscal year 1983 and comparable amounts in future fiscal years, yet the annual impact on any one beneficiary would be very small—much less than $12 in the typical case. Although technically different, this provision would be consistent with the recent amendment of the Social Security Act in the Omnibus Reconciliation Act of 1981 (Public Law No. 97–35).

Enactment of this provision would realize savings of $10.4 million in fiscal year 1984 and $10.1 million in fiscal year 1985.

In addition, Title I of the reported bill would round down compensation benefits to the lowest even dollar. This initiative would realize savings of $18.3 million in fiscal year 1983; $18.5 million in fiscal year 1984; and $18.6 million in fiscal year 1985.

Pension dependency

The bill would amend the definition of a dependent child for pension purposes, to exclude students over the age of 18. The proposed legislation would be phased in over four years to protect current student beneficiaries. It would save $13.4 million in fiscal year 1983. In his letter of February 19, 1982, in support of this proposal, the Administrator said:

> This amendment, effective October 1, 1982, would thus terminate new pension eligibility based on a child's college attendance. It would not affect the eligibility of persons who, prior to reaching age 18, become permanently incapable of self-support or pension eligibility based on a child's college attendance in cases where the child is attending college as of September 1982.
>
> "This provision—which will enable pensioners to continue receiving additional benefits for their children up to age 19 attending secondary school but eliminate future derivative pension benefits for adult college students and phase in, over a period of time, reductions in benefits for current beneficiaries—is consistent in part with the change in the Social Security program. Federal, State, and private programs to provide assistance to needy college students are already in place and provide a targeted approach to meeting their needs.

Enactment of this provision would realize savings of $18.1 million in fiscal year 1984 and $21.7 million in fiscal year 1985.

Repeal of authority to pursue correspondence training

Correspondence training is specifically designed to help veterans obtain the necessary skills to enable them to find employment or improve occupational skills. For 5 consecutive years, the VA has recommended termination of this program on the basis it was not meeting the objective of providing substantial employment for veterans, and that it was primarily used for recreational and avocational purposes. The VA believes the program is ineffective, has potential for continued abuses, and should be terminated.

The House Budget Committee has recommended the termination of correspondence training in its report on the First Concurrent Budget Resolution for fiscal year 1983. The Appropriations Committee, in approving the Veterans' Administration appropriation for fiscal year 1982 (Public Law 97–101) prohibited payments for correspondence training. The effect of Public Law 97–101 was that funds appropriated to the Veterans' Administration for readjustment benefits were not available for correspondence training. A subsequent act, Public Law 97–174, repealed the effect of this bar to payment for correspondence training. The Committee on Veterans' Affairs accepts the recommendation of the Administration, the Budget Committee and the Appropriations Committee to terminate this program.

If enacted, this provision would realize savings of $5.6 million in fiscal year 1983; $4.9 million in fiscal year 1984, and $4.2 million in fiscal year 1985.

SECTION-BY-SECTION ANALYSIS OF H.R. 6782, AS REPORTED

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

[NOTE.—For the purposes of this analysis, "adjusted 7.4 percent increase" means that the rate currently in effect would be increased by 7.4 percent and then rounded down to the nearest whole dollar.]

Section 101 would amend section 314 of title 38, United States Code, relating to disability compensation rates, to reflect an adjusted 7.4 percent increase in the monthly rates and other amounts specified in subsections (a) through (t) of section 314, other than the monthly rate specified in subsection (k). Section 101 would also authorize the Administrator of Veterans Affairs to provide an adjusted 7.4 percent increase in compensation payable to veterans under prior provisions of law.

The following table shows the compensation payable under current law compared with that to be provided in the reported bill:

	Existing rate	Proposed rate
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$58	$62
(b) 20 percent	107	114
(c) 30 percent	162	173
(d) 40 percent	232	249
(e) 50 percent	328	352
(f) 60 percent	413	443
(g) 70 percent	521	559
(h) 80 percent	604	648
(i) 90 percent	679	729
(j) 100 percent	1,130	1,213
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss or loss of use of, any of these organs: 1 foot, 1 hand, blindness in 1 eye (having light perception only), 1 or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	$62	$62
(2) Limit for veterans receiving payments under (a) to (j) above	1,403	1,506
(3) Limit for veterans receiving payments under (l) to (n) below	1,966	2,111
(l) Anatomical loss or loss of use of both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	1,403	1,506
(m) Anatomical loss or loss of use of both hands or both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural elbow or knee action with prosthesis in place, or blind in both eyes, either wth light perception only or rendering veteran so helpless as to require regular aid and attendance	1,547	1,661
(n) Anatomical loss or blinded with no light perception of both eyes or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near the hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near the shoulder and hip as to prevent use of prosthesis	1,758	1,888
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	1,966	2,111
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	1,966	2,111
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 40 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of 1 ear or service-connected loss or loss of use of an extremity next intermediate rate is payable, but in no event may compensation exceed	1,966	2,111
(3) Anatomical loss or loss of use of 3 extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	1,966	2,111
(q) (This subsection repealed by Public Law 90–493.)		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or (effective Oct. 1, 1979) at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	844	906
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,257	1,350
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,264	1,357
(t) Additional monthly allowance for a veteran in receipt of compensation for a disability not evaluated more than 90 percent disabling who has suffered a service connected loss or loss of use of an extremity evaluated not less than 40 percent and has suffered a nonservice connected loss or loss of use of the paired extremity evaluated as not less than 40 percent	244	262

Section 102 would amend paragraph (1) of section 315 of title 38, relating to rates of additional compensation for dependents, to reflect an adjusted 7.4 percent increase.

Dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which follow.

	Existing rate	Proposed rate
If and while veteran is rated totally disabled and—		
(A) Has a spouse but no child living	$69	$74
(B) Has a spouse and 1 child living	116	124
(C) Has a spouse and 2 children living	153	164
(D) Has a spouse and 3 or more children living	192	206
(Plus for each living child in excess of 3)	38	40
(E) Has no spouse but 1 child living	47	50
(F) Has no spouse but 2 children living	86	92
(G) Has no spouse but 3 or more children living	123	132
(Plus for each living child in excess of 3)	38	40
(H) Has a mother or father, either or both dependent upon him for support for each parent so dependent	56	60
(I) For a spouse who is a patient in a nursing home or who is so helpless as to require regular aid and attendance	125	134
(J) For each child who has attained age 18 and who is pursuing a course of instruction at an approved educational institution	105	112

Section 103 would amend section 362, relating to the annual clothing allowance for certain disabled veterans, to reflect an adjusted 7.4 percent increase.

The clothing allowance payable to veterans whose service-connected disabilities require the wearing or use of prosthetic or orthopedic appliances would be increased from $305 to $327.

Section 104 would amend section 411 of title 38, relating to dependency and indemnity compensation (DIC) for surviving spouses, to reflect an adjusted 7.4 percent increase in the basic monthly rates and additional amounts payable by reason of a child or severe disability.

The following table shows DIC benefits payable under current law compared with that to be provided in the reported bill.

Pay grade	Rate		Pay grade	Rate	
	From	To		From	To
E-1	$415	$445	O-1	$525	$563
E-2	428	459	O-2	542	582
E-3	438	470	O-3	580	622
E-4	466	500	O-4	613	658
E-5	479	514	O-5	676	726
E-6	490	526	O-6	761	817
E-7	514	552	O-7	824	884
E-8	542	582	O-8	903	969
E-9[1]	[1]567	[1]608	O-9	970	1,041
W-1	525	563	O-10[2]	[2]1,061	[2]1,139
W-2	546	586			
W-3	562	603			
W-4	595	639			

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[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps or master chief petty officer of the Coast Guard, the surviving spouses' rate is increased from $610 to $655.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, the rate for the surviving spouse is increased from $1,138 to $1,222.

The additional rate payable to spouses for each child of the veteran under the age of 18 would be increased from $48 to $51.

The special rate for aid and attendance for a qualified surviving spouse would be increased from $125 to $134.

The special rate for housebound status would be increased from $62 to $66.

Section 105 would amend section 413, relating to DIC for children, to reflect an adjusted 7.4 percent increase in the monthly rates.

The rates would be increased as follows:

	Existing rate	Proposed rate
1 child	$210	$225
2 children	301	323
3 children	389	417
Each additional child	79	84

Section 106 would amend section 414, relating to supplemental DIC for children, to reflect an adjusted 7.4 percent increase in the monthly rates.

The additional rate payable to a child who has attained the age of 18 but who became permanently incapable of self-support while under such age would be increased from $125 to $134.

The rate payable concurrent with the DIC payment to a widow with a child who has attained the age of 18 but who became permanently incapable of self-support while under such age would be increased from $210 to $225.

The rate payable to a child who has attained the age of 18 but is no more than 22 and pursuing a course of instruction at an approved educational institution would be increased from $107 to $114. The increases provided for under Title I would become effective October 1, 1982.

TITLE II—PROGRAM CHANGES

Section 201 would amend paragraph (22) of section 101, relating to the definition of "active duty for training," to redesignate clause (D) as clause (E) and to insert a new clause (E).

New clause (E) of paragraph (22) of section 101 would include within the definition of "active duty for training," annual training duty performed by a member of a Senior Reserve Officers' Training Corps (SROTC) unit, if the member was ordered to such duty for a period of fourteen days or more. This amendment would be effective with respect to diseases or injuries incurred or aggravated during SROTC annual training duty performed after September 30, 1982. Under current law, SROTC members disabled during annual training duty are not eligible for VA compensation (unless they have been previously admitted into a reserve component); however, the member's death during such duty qualifies as service connected for the purpose of DIC and service disabled life insurance benefits.

By virtue of section 101(24) of title 38, a period of active duty for training during which an individual was disabled from a line-of-duty injury or disease constitutes "active military, air, or naval service", and, by virtue of the section 101(2) definition of "veteran", and individual discharged or released from such service under conditions other than dishonorable meets the definitions the definition of "veteran" for many title 38 purposes. Hence, SROTC members disabled in the line of duty during annual training duty would, under this amendment, qualify as veterans for the purpose of compensation, VA health care, and vocational rehabilitation.

Section 202 would amend section 314 of title 38, relating to certain disability compensation rates, effective October 1, 1982.

Subsection (*a*) would amend subsection (n) of section 314 to provide monthly compensation at the "n" rate to any veteran who is, as the result of service-connected disability, totally blind without light perception in either eye. Currently such veterans are compensated under section 314(m) as are totally blind veterans who retain light perception or, under Veterans Administration regulations, at a higher rate if the blinded veteran without light perception has also suffered disfigurement, evisceration, or phthisis bulbi.

Subsection (*b*) would amend subsection (p) of section 314 to provide compensation at the next higher intermediate rate, not to exceed the statutory maximum, if the veteran has suffered service-connected blindness with 5/200 visual acuity or less and has also suffered the service-connected anatomical loss or loss of use of one hand or foot. Under current law, bilaterally blinded veterans are compensated at the "l" rate if visual acuity is 5/200 or less, at the "m" rate if the veteran has only light perception, and at the "n" rate if the veteran has suffered optical enucleation. Veterans compensated at these rates who have suffered the service-connected loss or loss of use of a hand or foot also receive the section 314 "k" award. Under this amendment, the blinded veteran with the requisite extremity impairment will receive compensation at the next higher intermediate rate and will also be eligible to receive the "k" award.

Section 203 would, effective October 1, 1982, amend the second sentence of paragraph (2) of section 315 of title 38, relating to additional compensation for dependents. Under section 315(2), dependents' allowances payable to veterans rated from 30 to 90 percent disabled are prorated according to the degree of disability and rounded upward or downward to the nearest dollar. Under this amendment, all amounts would be rounded downward to the nearest dollar.

Section 204 would amend section 410(b)(1) of title 38, relating to benefits at DIC rates for certain survivors of veterans whose deaths were not service connected, to liberalize the applicable requirements. Under current law, a surviving spouse or child is eligible only if the veteran was, at the time of death, in receipt of compensation for a disability rated as total for 10 years prior to death or for 5 years and continuously from the date of discharge. Under this amendment, a survivor would be eligible for benefits at DIC rates if the veteran was "entitled" to receive compensation at the total rate during the requisite period. It is intended to create entitlement in survivors when the veteran was not assigned a total disability rating for the requisite duration because of rating error.

This amendment is intended to apply to benefits at DIC rates payable for months after September 1982.

Section 205 would, effective October 1, 1982, amend section 770 of title 38, relating to beneficiaries and payment of proceeds in the Servicemen's Group Life Insurance (SGLI) and Veterans' Group

Life Insurance (VGLI) programs, to delete the second sentence of subsection (c) and add a new subsection (h).

Under current law, a bar to the payment of SGLI–VGLI proceeds is implied when a claim is filed more than four years after the insured's death. This amendment would delete the section 770(c) requirement, from which the bar is implied, that proceeds "escheat" to the SGLI revolving fund if unclaimed for four years after the insured's death. This amendment would also provide that SGLI–VGLI proceeds may not escheat to a State and may not be paid to an estate unless there are assurances that the ultimate result would not be an escheat; also, SGLI–VGLI proceeds are to be reduced to the extent necessary to prevent escheat.

Section 206 would, effective with respect to burials after September 30, 1982, require the Veterans Administration to furnish a flag to drape the casket of an individual buried in a National Cemetery by virtue of the Administrator's authority under section 1002(6) of title 38 to approve the burial of non-veterans in a National Cemetery. Under current law, flags may be issued only for veterans' burials.

Section 207 would amend section 902 of title 38, relating to funeral expenses payable for veterans' nonservice-connected deaths, to subsume the current eligibility requirements in a new clause (1) and to add an additional category of eligibility in a new clause (2).

New clause (2) of section 902 would enable funeral expenses to be paid, up to $300, for a wartime veteran or a veteran discharged for a line-of-duty disability whose body is held by a State or local governmental entity if the VA determines that no one has claimed the body and that resources from the veteran's estate or otherwise are insufficient to pay for the veteran's funeral and burial.

Under current law, only veterans in receipt of compensation or pension at the time of death are eligible for nonservice-connected burial benefits. This amendment would enable benefits to be paid in the cases of indigent veterans whose bodies are unclaimed with respect to deaths occurring after September 30, 1982.

Section 208 would, effective with respect to deaths occurring after September 30, 1982, amend section 903(a) of title 38, relating to death in a Veterans Administration facility, to add a definition of "Veterans Administration facility." The new definition would encompass any facility classified as a "Veterans Administration facility" by virtue of section 601(4) of title 38 as well as a private facility to which the veteran was properly transferred for nursing home care under section 620 of title 38.

Currently, burial benefits under section 903(a) are payable only if death occurred while the veteran was being cared for in a facility within the scope of the section 601(4) definition. That definition encompasses VA and certain non-VA facilities in which veterans are housed at VA expense. This amendment would enable burial benefits to be paid if the veteran dies in a VA or non-VA institution within the scope of the section 601(4) definition or an institution to which he or she has been transferred pursuant to the VA's authority under section 620, regardless of whether the VA is bearing the cost of the veteran's care at the time of death.

Section 209 would, effective upon enactment, remove a restriction applicable to the appointment of superintendents of national cemeteries under Department of the Army jurisdiction. Currently, the Secretary of the Army's appointment power is limited by the requirement that such superintendents be "meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for field services." In practice, this means that only service-disabled military retirees can receive such appointments. The Act imposing the requirement, enacted in 1948, was repealed by section 7(a)(3) of the National Cemeteries Act of 1973 (Pub. L. No. 93–43, 87 Stat. 88), but the requirement remained in effect by virtue of section 7(b)(2) of the National Cemeteries Act. Under this amendment, the Secretary of the Army would have the power to appoint as a national cemetery superintendent an individual other than a service-disabled military retiree.

Section 210 would amend section 5010(a), requiring all services of a VA medical facility to be performed by in-house employees unless the Administrator determines that such facility is not capable of carrying out such services in-house or that contracted services would enhance the quality of medical care for eligible veterans.

TITLE III—BUDGET SAVINGS PROVISIONS

Section 301 would provide for a short title applicable to title III.

Section 302 would add a new section 1829 to chapter 37 of title 38, relating to home and business loans, which would require a veteran to pay a funding fee equal to one-half of one percent of the loan amount on all housing and small business loans guaranteed, insured or made under chapter 37. The amount of the fee could be included in the loan. Fees would be credited to the Treasury as miscellaneous receipts. Veterans entitled to receive compensation for service-connected disabilities and surviving spouses of veterans whose deaths were service connected would be exempted from paying the fee. The fee would apply only to loans closed after September 30, 1982 and before October 1, 1985.

Section 303 would, effective October 1, 1982, amend chapter 51 of title 38, relating to applications, effective dates, and payments, to add a new section 3011 to be titled "Commencement of the period of payment based on an award."

New section 3011 would defer the commencement of the period of payment based on an award or an increased award of compensation, DIC, or pension, to the first day of the month following the month in which the award is effective, but would not affect the effective date of the award for any purpose, and, during the period between the effective date and the first of the following month, the beneficiary would, for title 38 purposes, be deemed to be in receipt of benefits. Waivers of military retired pay, necessary in order for the retiree to receive compensation or pension, would not become effective until the date payment of VA benefits commences.

Under section 3110 of title 38, a surviving spouse eligible for DIC or pension may receive a special payment for the month of the veteran's death equivalent to what the veteran would have received or the DIC or pension payment, whichever is the greater. This amendment would affect the section 3110 benefit only if the DIC or pension benefit is greater than the amount the veteran would have received.

Section 304 would, effective October 1, 1982, amend section 3012 (b)(2) of title 38, relating to effective dates of reductions and discontinuances, to change the effective date for a reduction or discontinuance of compensation, DIC or pension, by reason of a veteran's annulment or divorce or a dependent's marriage or death, from the end of the year to the end of the month in which the event occurred.

Section 305 would, effective October 1, 1982, amend chapter 51 of title 38, relating to applications, effective dates, and payments, to add a new section 3023 to be titled "Rounding of pension payments."

New section 3023 would require the VA to round down to the next lower dollar all section 306 or improved pension payments that otherwise would be made in amounts that are not multiples of one dollar. Section 306 payments refer to those made by virtue of section 306(a) of Public Law 95-588, and improved pension payments are those made under sections 521, 541, and 542 of title 38.

Section 306 would, effective October 1, 1982, amend section 501 of title 38, relating to definitions for purposes of chapter 15 of title 38 (nonservice-connected pension), by adding a new paragraph (5).

New paragraph (5) would provide that, for purposes of the improved pension program, the meaning of the term "child" would be as provided in section 101(4) of title 38 except that children over the age of 18 whose entitlement is premised on pursuit of post-secondary training would not be included. Under current law, an improved pension veteran may receive additional pension for a child in college up to age 23, and a wartime veteran's surviving child in college also may receive improved pension up to age 23. This amendment would preclude receipt of such benefits with respect to children attaining age eighteen on or after October 1, 1982. However, improved pension payable to or on behalf of a child age 18 in secondary school in order to receive a diploma would continue to be payable until the child turns 19. "Helpless" children—those who have become permanently incapable of self-support before reaching age 18—would not be affected, regardless of whether they are in college.

This section would also affect section 306 and improved pension payable to or for college students ages 18-23 who turn 18 before October 1, 1982. First, benefits would not be payable for the summer months May, June, July, and August in 1983 through 1985. Second, the benefit payable would be frozen at the September 1982 level (or a later month if appropriate under the circumstances), reduced by 25 percent during October 1982 through April 1983, by 50 percent during September 1983 through April 1984, and by 75 percent during September 1984 through April 1985. No benefits would be payable for any month after April 1985. A student who discontinues college training would thereafter be ineligible for benefits even if training is resumed. These limitations and reductions would not apply if the child is working toward a secondary school diploma or is helpless.

Section 307 would amend chapters 32, 34, 35, and 36 of title 38, United States Code, relating to VA educational assistance programs, to repeal the authority under which service persons, veterans, and dependents are permitted to pursue correspondence training under the contributory education program (VEAP), the GI Bill or the dependents' educational assistance program.

EFFECTIVE DATES

The effective date of the provisions of the reported bill is October 1, 1982, except for sections 209 and 210 which take effect on the date of enactment.

OVERSIGHT FINDINGS

The Subcommittee on Compensation, Pension and Insurance held hearings and received testimony from the Veterans' Administration and several national service organizations.

The rate of inflation as evidenced by the leading economic indicators and the Consumer Price Index will, without remedial legislation, result in a substantial erosion of real benefits to the service-connected veterans and to survivors of veterans who have died of service-related causes. Since service-connected benefits administered by the Veterans' Administration are not indexed to living cost indicators, affirmative action by the Congress will be required if the most deserving of our citizens are not to suffer.

The rate increases proposed are justified by the increase in the cost-of-living since the last rate increase, October 1, 1981.

The Committee recognizes the Nation's primary obligation to service-connected disabled veterans and their families. Congress has continued to acknowledge the needs of these veterans; and since July 1952, there have been 16 compensation rate increases with the latest having become effective last October.

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

BUDGET STATEMENT

As required by the Rules of the House of Representatives, the following cost estimate has been received from the Congressional Budget Office on the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 23, 1982.

HON. G. V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6782, the Veteran's Disability Compensation and Survivors' Benefits Amendments of 1982.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director*.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 6782.
2. Bill title: Veteran's Disability Compensation and Survivors' Benefits Amendments of 1982.
3. Bill status: As amended and ordered reported by the House Committee on Veterans' Affairs, July 22, 1982.
4. Bill purpose: To increase the rates of disability compensation and dependency and indemnity compensation, and for other purposes.
5. Cost estimate:

	Millions
Estimated budget authority:	
Fiscal year:	
1983	$539.0
1984	533.3
1985	531.1
1986	640.0
1987	647.5
Estimated outlays:	
Fiscal year:	
1983	486.0
1984	533.1
1985	530.9
1986	639.8
1987	647.3

The costs of this bill would fall in budget function 700.

6. Basis for estimate: The following section-by-section cost analysis only addresses those sections of the bill that would be expected to have a budgetary impact.

This bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriations action to provide the necessary budget authority. Figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of this bill. Certain sections would reduce future federal liabilities through changes in entitlements and, therefore, would permit subsequent appropriations action to reduce budget authority for the programs involved. Negative figures shown as "Required Budget Authority" represent an estimate of the amount by which budget authority could be reduced, as a result of the bill, below the level needed under current law.

TITLE I:

This title would increase the monthly rates payable under disability compensation and dependency and indemnity compensation [DIC] by 7.4 percent, except that, in calculating the new rates, all amounts less than $1 were rounded to the next lower dollar. This increase would be effective October 1, 1982.

	Millions
Required budget authority:	
Fiscal year:	
1983	$692.4
1984	702.6
1985	709.3
1986	718.2
1987	726.0
Estimated outlays:	
Fiscal year:	
1983	639.1
1984	702.1
1985	708.7
1986	717.5
1987	725.3

The cost of this title was estimated by first calculating the cost of a full 7.4 percent increase under normal rules of rounding (i.e., all amounts greater than $.50 rounded to the next higher dollar). This was achieved by multiplying the projected average cost in each year for all disability compensation cases and for all DIC cases by 7.4 percent, then multiplying the resulting average increase in costs per year for each program by the estimated number of cases in the program each year.

It was then determined which payment categories would receive $1 per month less under the new rounding procedure than they would have received under normal rounding rules. The number of cases in each of these categories was then multiplied by 12 payments per year to estimate the savings that would result from these cost reduction measures. The cost of a full 7.4 percent increase was reduced by these savings.

TITLE II

Section 201

This section would provide eligibility for disability compensation to Senior Reserve Officers' Training Corps participants injured during summer military training camp. This provision would be effective with respect to diseases and disabilities incurred or aggravated during duty performed after September 30, 1982.

The number of new compensation cases that would result from this provision would be too small to significantly affect total compensation costs.

Section 202

This section would increase the amount of compensation payable to certain blinded veterans.

According to VA information, there are only 2,500 veterans suffering from service-connected blindness in both eyes. Since this provision would only affect a portion of these veterans, it is not expected to result in a significant cost.

Section 203

This section would change the manner in which allowances are calculated for the dependents of veterans rated less than 100 percent disabled.

	Millions
Required budget authority:	
Fiscal year:	
1983	−$2.0
1984	−1.9
1985	−1.8
1986	−1.8
1987	−1.7
Estimated outlays:	
Fiscal year:	
1983	−2.0
1984	−1.9
1985	−1.8
1986	−1.8
1987	−1.7

Section 315 (title 38, U.S.C.), as amended by section 102 of this bill, specifies the monthly rates payable for various categories of dependents of veterans rated 100 percent disabled. To calculate the rate for a veteran rated less than 100 percent disabled, these specified allowances are prorated according to the veteran's combined degree of disability. This amendment would provide that, in making this calculation, all amounts less than $1 would be rounded down to the next lower dollar, rather than rounding $0.50 or more up to the next higher dollar as is specified in current law.

The savings from this section were calculated using Veterans Administration (VA) data indicating the number and type of dependents of veterans at each level of disability. It was determined which categories would lose $1 a month in benefits as a result of the new rounding scheme. The number of dependents in the affected categories were then multiplied by 12 payments per year to determine the estimated level of savings.

Section 206

This section would authorize the Administrator to furnish a burial flag to the next of kin of persons buried in national cemeteries who are not currently eligible for such flags. This provision would be effective with respect to burials after September 30, 1982.

The cost of this provision should not be significant.

Section 207

This section would provide eligibility for burial benefits to certain veterans whose remains are unclaimed. This amendment would be effective with respect to deaths occurring after September 30, 1982.

According to an informal telephone survey conducted by VA of all of their regional offices, the number of deceased veterans whose remains are unclaimed each year is quite small. It is expected that less than 100 burial awards would be made under this provision in any year. The cost of the provision, therefore, would not be significant.

Section 210

This section would prohibit the Administrator from contracting for the performance of any activities carried out in a VA medical center, except to the extent that the facility is not capable of performing the activity or that contracting the activity out would enhance the quality of medical care offered by the facility.

According to information from the Office of Management and Budget (OMB), neither VA nor OMB is anticipating contracting for the performance of any new activities in VA medical centers in the near future. This provision is, therefore, not expected to have a budgetary impact.

TITLE III

Section 302

This section would require the collection of a funding fee of one-half of one percent of the original loan principal on loans guaranteed, insured, or made to veterans under the authority of chapter 37, title 38, U.S.C. Loans made to service-disabled veterans would be exempt from the fee. This provision would be effective for all loans closed on or after October 1, 1982 and before October 1, 1985.

	Millions
Estimated budget authority:	
Fiscal year:	
1983	—$89.6
1984	—99.8
1985	—104.1
1986	0
1987	0
Estimated outlays:	
Fiscal year:	
1983	—89.6
1984	—99.8
1985	—104.1
1986	0
1987	0

According to Veterans Administration information, approximately 330,000 loans to veterans are guaranteed each year. Because data are not available on the number of loans made to service-disabled veterans, this estimate assumes that such veterans apply for loans at the same rate as all other veterans. It is estimated that approximately 5 percent of loan guarantees are made to service-disabled veterans.

The average value of VA-insured loans is estimated to be about $57,000 in fiscal year 1983. This loan would result in an average funding fee of $285. The total amount of the fees would increase in the outyears as increases in the cost of housing cause the average funding fee to rise and as anticipated decreases in mortgage interest rates result in growth in the volume of loans.

A similar provision to section 302 was contained in S. 2379, as introduced in the Senate at the request of the President on April 15, 1982. That bill would have required the user fee to be collected on all loans made to veterans, regardless of disability, and did not include the September 30, 1985 termination date found in section 302. The VA and CBO estimates of S. 2379, as shown below, were identical, reflecting a level of receipts approximately 5 percent higher in 1983–1985 than the estimate of section 302.

CBO/VA estimate of S. 2379

	Millions
Estimated budget authority:	
Fiscal year:	
1983	—$94.6
1984	—105.5
1985	—110.0
1986	—112.5
1987	—112.5
Estimated outlays:	
Fiscal year:	
1983	—$94.6
1984	—105.5
1985	—110.0
1986	—112.5
1987	—112.5

Another provision similar to section 302 was included with the reconciliation provisions of the Senate Committee on Veterans' Affairs, as transmitted to the Senate Budget Committee on July 20, 1982. While the Senate provision also exempted from the fee loans made to service-disabled veterans, it did not include a repeal date. The estimate of the Senate provision, therefore, was the same as that shown above for section 302 in fiscal years 1983–1985; but the provision is estimated to generate further receipts of $106.4 million in both fiscal years 1986 and 1987.

Section 303

This section would provide that the period for which benefits are paid on a new disability compensation, dependency and indemnity compensation (DIC), or pension award would begin the first day of the month following the month in which the award is effective. This provision would take effect October 1, 1982.

	Millions
Compensation:	
Required budget authority:	
Fiscal year:	
1983	−$9.0
1984	−10.0
1985	−10.4
1986	−10.8
1987	−11.2
Estimated outlays:	
Fiscal year:	
1983	−9.0
1984	−10.0
1985	−10.4
1986	−10.8
1987	−11.2
Pensions:	
Required budget authority:	
Fiscal year:	
1983	−19.8
1984	−20.7
1985	−22.0
1986	−23.3
1987	−25.6
Estimated outlays:	
Fiscal year:	
1983	−19.8
1984	−20.7
1985	−22.0
1986	−23.3
1987	−25.6

This estimates assumes that all new compensation and pension cases would lose an average of two weeks of benefits as a result of this provision. Approximately 55,000 compensation cases and 128,000 pension cases are estimated to lose on the average $163 and $155, respectively, in fiscal year 1983. Benefits levels in both programs were raised each year for anticipated cost-of-living increases.

A provision substantively identical to section 303 was contained in S. 2378, as introduced in the Senate on April 15, 1982. This bill was introduced at the request of the President. The VA and the CBO estimates of this provision are identical and are the same as the estimate shown above.

Section 304

This section would provide that, where a compensation or pension benefit is to be reduced or discontinued by reason of a dependent's or survivor's marriage or death, or a veteran's divorce or annulment, the effective date of the reduction or discontinuance would be the last day of the month in which the event occurred. Under current law the effective date in such cases would be the last day of the calendar year in which the event occurred. This section would be effective October 1, 1982.

	Millions
Compensation:	
Required budget authority:	
Fiscal year:	
1983	$1.4
1984	1.4
1985	1.4
1986	1.4
1987	1.4
Estimated outlays:	
Fiscal year:	
1983	1.4
1984	1.4
1985	1.4
1986	1.4
1987	1.4
Pensions:	
Required budget authority:	
Fiscal year:	
1983	1.8
1984	2.1
1985	2.5
1986	2.8
1987	3.2
Estimated outlays:	
Fiscal year:	
1983	1.5
1984	1.8
1985	2.1
1986	2.3
1987	2.7

This estimate is based on VA information indicating that approximately 7,200 compensation cases and 4,400 pension cases would be affected by this provision. The majority of the cases affected would be veteran beneficiaries who would experience the loss of a dependent's allowance six months earlier, on the average, than would be the case under current law.

A provision substantively identical to section 304 was contained in S. 2378, as introduced in the Senate on April 15, 1982. This bill was introduced at the request of the President. The VA and the CBO estimates of this provision are identical and are the same as the estimate shown above.

Section 305

This section would provide that monthly pension payments be rounded down to the next lower dollar. This provision would take effect on October 1, 1982.

	Millions
Required budget authority:	
Fiscal year:	
1983	−$10.8
1984	−10.4
1985	−10.1
1986	−9.9
1987	−9.7
Estimated outlays:	
Fiscal year:	
1983	−10.8
1984	−10.4
1985	−10.1
1986	−9.9
1987	−9.7

Nearly 1,700,000 pension cases would be affected by this provision, but the loss to any individual would be less than $1 per month. In those cases where benefits are apportioned to dependents not living with the primary beneficiary, it was assumed that each check would be rounded down. The savings from this amendment would decrease in the outyears, because the total number of pension cases is projected to gradually decline.

A provision similar to section 305 was contained in S. 2378, as introduced in the Senate on April 15, 1982, at the request of the President. The President's proposal stated an effective date of July 1, 1982. Another proposal to round down pension checks was included in the Senate Committee on Veterans' Affairs reconciliation provisions as transmitted to the Senate Budget Committee on July 20, 1982. This proposal would be effective July 1, 1983. The only differences involved in the estimates for these provisions, both from CBO and from VA, relate to the differences in effective dates.

Section 306

This section would amend the definition of a child, for pension purposes, to include children under the age of 19 who are attending secondary school but to exclude post-secondary school students age 18 or older. This provision would be phased in, beginning in fiscal year 1983, in a similar manner to the amendment to the Social Security Act contained in section 2210 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35).

	Millions
Required budget authority:	
Fiscal year:	
1983	−$13.4
1984	−18.1
1985	−21.7
1986	−24.6
1987	−22.6
Estimated outlays:	
Fiscal year:	
1983	−13.4
1984	−18.1
1985	−21.7
1986	−24.6
1987	−22.6

The above figures reflect a VA estimate that this provision would affect approximately 99,200 dependent children of veteran and widowed pensioners. The average amount of benefits lost per child is estimated to be approximately $250 when the phase-in is completed. After fiscal year 1986, the savings from this provision would be expected to decline, because the total number of pension children is projected to decrease.

A provision substantively identical to section 306 was contained in S. 2378, as introduced in the Senate on April 15, 1982. This bill was introduced at the request of the President. The VA and the CBO estimates of this provision are identical and are the same as the estimate shown above.

Section 307

This section would eliminate the authority for correspondence training under chapters 32, 34, and 35 of title 38, U.S.C.

	Millions
Required budget authority:	
Fiscal year:	
1983	**—$5.6**
1984	**—4.9**
1985	**—4.2**
1986	**—3.6**
1987	**—3.1**
Estimated outlays:	
Fiscal year:	
1983	**—5.6**
1984	**—4.9**
1985	**—4.2**
1986	**—3.6**
1987	**—3.1**

This estimate assumes that under current law approximately 25,500 veterans would be receiving benefits under chapter 34 for correspondence training in fiscal year 1983. A very small number of veterans, wives, and widows would also be pursuing correspondence training under chapters 32 and 35. The average reimbursement per correspondence trainee in 1983 is expected to be approximately $220. The number of correspondence trainees is projected to decrease through 1987, consistent with the overall decline in the number of veterans training under chapter 34.

A provision substantively identical to section 307 was contained in H.R. 5673, as introduced in the House of Representatives at the request of the President on March 2, 1982. The VA and CBO estimates of this provision are identical and are the same as the estimate shown above.

7. Estimate comparison: Where applicable, VA estimates are discussed by section under "Basis for Estimate."

8. Previous CBO estimate: Provisions substantively identical to those contained in sections 303, 304 and 306 were contained in the reconciliation provisions of the Senate Committee on Veterans' Affairs, as transmitted to the Senate Budget Committee on July 20, 1982. In each case, the estimates shown above for these provisions are identical to the estimates made for the corresponding provisions in the Senate Veterans' Affairs Committee's transmittal.

All other previous CBO estimates are discussed by section under "Basis for Estimate."

9. Estimate prepared by: K. W. Shepherd.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

COST

The Committee concurs in the cost estimate of the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact.

VOTE BY THE COMMITTEE

On July 22, 1982, with a quorum present, the Committee, by voice vote, ordered H.R. 6782 reported to the House with an amendment.

AGENCY REPORTS

The following reports and comments were received from the Veterans Administration and the Department of the Army.

DEPARTMENT OF THE ARMY,
Washington, D.C., July 6, 1981.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of legislation "To amend the National Cemeteries Act of 1973, to rescind the requirement that the superintendent positions of national cemeteries under the jurisdiction of the Secretary of the Army be limited to disabled veterans, and for other purposes," with corresponding sectional analysis.

This proposal is a part of the Department of Defense Legislative Program for the 97th Congress, and the Office of Managament and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Army has been designated the representative of the Department of Defense for this legislation. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

In 1948, Public Law 452 (62 Stat. 84, 24 U.S.C. 275), stated, "That superintendents of the national cemeteries shall be selected from meritorious and trustworthy members of the Armed Forces who have been honorably separated from the service of the United States, and who have been disabled in line of duty for active field service." In 1961, Public Law 87–178 (75 Stat. 411) amended the foregoing as follows: "Superintendents of national cemeteries shall be selected from among meritorious and trustworthy persons who served in the Armed Forces of the United States, and who either were retired for physical disability, or were discharged or released therefrom under honorable conditions and are entitled to receive compensation for disability under the laws administered by the Veterans' Administration." Thus, it was required by law that disabled veterans must be selected for superintendent positions at national cemeteries.

The Department of the Army administered 84 national cemeteries prior to 1973. When 82 of these cemeteries were transferred to the Veterans Administration under the provisions of the National Cemeteries

Act of 1973 (87 Stat. 75, 38 U.S.C. 1000 et seq.), the Act excluded the requirement that superintendents for national cemeteries administered by the Veterans' Administration be disabled veterans. It also repealed Public Laws 452 and 87-178. However, section 7(b) of the National Cemeteries Act of 1973 in part states: "Nothing in this section shall be deemed to affect in any manner the functions, powers, and duties of—

* * * * * * *

(2) The Secretary of the Army, . . . with respect to those cemeteries, memorials, or monuments under his jurisdiction to which the transfer provisions of section 6(a) of this Act do not apply."

Thus, while the National Cemeteries Act of 1973 removed the disability requirement for superintendents of all national cemeteries transferred to the Veterans' Administration, it continued the disability requirement for superintendents of Army National Cemeteries.

Superintendents of Army National Cemeteries must meet appropriate United States Civil Service qualification standards. Under the current law and Civil Service requirements, a qualified applicant for those positions must meet the disability requirement and have three years of specialized experience in the operational management and administration of a cemetery. The Veterans' Administration requires only the three years of specialized experience.

The position of Superintendent of Arlington National Cemetery is a particularly desirable appointment for those career Civil Service personnel having the required specialized experience. In addition to the managerial requirements, the Superintendent of Arlington National Cemetery, as the representative of the Secretary of the Army, must coordinate the many ceremonies held at the Tomb of the Unknown Soldier, deal tactfully with the public, including the four million visitors each year, and host the President and other dignitaries of the United States and many foreign countries. The selection of a superintendent for Arlington National Cemetery previously has been made from the best qualified disabled-veteran candidate. As the source of candidates for superintendent positions of Army National Cemeteries is primarily superintendents of Veterans' Administration cemeteries (who do not have the disability prerequisite), the Army anticipates extreme difficulty in filling future vacancies for the superintendent positions at Arlington and the Soldiers' Home National Cemeteries. The proposed legislation would enable the Army to avoid that difficulty.

COST AND BUDGET DATA

The enactment of this proposal will cause no apparent increase in the budgetary requirements for the Department of Defense.

Sincerely,

WILLIAM R. GIANELLI,
Assistant Secretary of the Army (Civil Works).

A BILL To amend the National Cemeteries Act of 1973, to rescind the requirement that the superintendent positions of national cemeteries under the jurisdiction of the Secretary of the Army be limited to disabled veterans, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the National Cemeteries Act of 1973 is amended by adding a new subsection (c) as follows: "(c) With respect to national cemeteries under the jurisdiction of the Secretary of the Army to which the transfer provisions of section 6(a) of this Act do not apply, and notwithstanding any functions, powers and duties created by the laws referenced in clauses (3) and (61) of section 7(a) of this Act, superintendents shall be selected by the Secretary of the Army or his designee into the civil service under laws and regulations governing the appointment of civilians into the civil service."

SECTION 2. Section 10(c) of the National Cemeteries Act of 1973 is amended by inserting "(a) and (b)" immediately after "7."

SECTION 3. The provisions of this Act shall become effective on the date of enactment.

SECTIONAL ANALYSIS

Section 1 amends section 7 of the National Cemeteries Act of 1973 (Public Law 93–43, 87 Stat. 75, 38 U.S.C. 1000 et seq.) to permit the selection of superintendents of Army National Cemeteries into the civil service. This would rescind the current requirement that disabled veterans must be selected for such positions.

Section 2 is a technical amendment necessitated by the amendment to section 7 and avoids conflict in the effective date of the several subsections thereof.

Section 3 provides an effective date for the amendment to section 7.

VETERANS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., February 17, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft bill to authorize collection of a funding fee of one-half of one percent on all loans guaranteed, insured, or made by the Administrator of Veterans' Affairs, which we request be introduced and receive favorable consideration. This will carry out a proposal in the President's fiscal year 1983 budget.

As originally enacted, section 1818 of title 38, United States Code (which granted VA home loan eligibility to post-Korean conflict veterans), required collection of such a fee. That provision was repealed by Pub. L. No. 91–506 in 1970. Therefore, at the present time, no charge is made to a veteran for obtaining the Government's guaranty on his or her home loan.

To date, the Veterans Administration has guaranteed or made over 11,480,000 loans to veterans and active duty service personnel. The face value of these loans has totaled approximately $200 billion.

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are, nevertheless, mindful that the costs to the taxpayers of operating the program and paying claims on the approximately 3.7 percent of the loans resulting in foreclosure are significant. Since the Loan Guaranty program provides a unique benefit for a select group of beneficiaries, we believe it is reasonable that this group bear a portion of the cost of providing the benefit through a modest, one-time fee.

We estimate that collection of this fee would result in revenues of $94,640,000 in fiscal year 1983 and a total 5-year collection of $535,035,000. Collections are estimated by fiscal year to be as follows: FY 1983, $94,640,000; FY 1984, $105,460,000; FY 1985. $110,025,000; FY 1986. $112,455,000; and FY 1987, $112,455,000. The fees collected will be deposited in the treasury as miscellaneous receipts, and as proprietary receipts they will be credited as offsets to Veterans Administration buget authority and outlays.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this legislative proposal and its enactment would be in accord with the program of the President.

Sincerely,

Robert P. Nimmo, *Administrator.*

Enclosure.

A BILL to amend chapter 37 of title 38, United States Code, to require the collection of a funding fee on all loans guaranteed, insured, or made to veterans under such chapter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter III of chapter 37 of title 38, United States Code, is amended by inserting after section 1821 the following new section—

"§ 1822. Funding fee

"A fee of one-half of one percent of the original loan principal shall be collected at the time of settlement from each veteran obtaining a loan guaranteed, insured, or made under this chapter. No loan shall be guaranteed, insured, or made under this chapter until the fee payable under this section has been remitted to the Administrator. Fees collected under this section shall be deposited into the Treasury of the United States, as miscellaneous receipts.".

Sec. 2. The table of sections for chapter 37 of title 38, United States Code, is amended by inserting immediately after the item for section 1821 the following new item:

"1822. Funding fee.".

Sec. 3. The amendments made by this Act shall apply only to those loans closed on or after October 1, 1982.

Veterans Administration,
Office of the Administrator of Veterans Affairs,
Washington, D.C., February 19, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: I am enclosing a draft bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative Federal payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for other cost-saving improvements in veterans' programs; and for other purposes. I respectfully request that the bill be introduced and promptly enacted.

The bill, to be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982," would accomplish the following purposes:

a. Increase the monthly rates of compensation payable to veterans for service-connected disabilities, as well as the additional amounts authorized those with dependents.

b. Increase the monthly rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths were service connected.

c. Increase the annual clothing allowance payable to certain veterans wearing or using prosthetic or orthopedic appliances.

d. Discontinue payments of additional compensation for individual unemployability in cases where veterans are receiving other Federal benefits by reason of disability or retirement.

e. Increase from 30 percent to 50 percent the level of disability required for the payment of dependents' allowances.

f. Provide that the commencement of the period of payment of benefits shall be the first day of the month following the month in which the award became effective.

g. Change the effective date for the reduction of benefits by reason of the loss of a dependent from the end of the year to the end of the month in which the loss occurred.

h. Provide for the rounding down, to the next lower dollar, of monthly pension benefit payments.

i. Limit eligibility for pension or additional pension based on a child's college attendance to those for whom benefits are payable as of September 1982 and phase in certain reductions in such pension.

We estimate enactment of the increased rates would result in fiscal year 1983 costs of $771 million, and comparable costs in succeeding years. Offsetting savings of an estimated $4.8 million in fiscal year 1982, $191.5 million in 1983, and $483.2 million in 1984 would be realized through enactment of the bill's other provisions.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

Sections 101 through 106 would provide for an increase of 8.1 percent in monthly compensation and dependency and indemnity compensation (DIC) rates and in the annual clothing allowance.

The purpose of disability compensation, payable under chapter 11 of title 38, United States Code, is to provide relief from the impaired earning capacity of veterans disabled during, or as a result of, military service. Disability ratings are required by section 355 of title 38 to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability in civil occupations. Special higher rates are payable for specified disabilities, and additional compensation is payable for dependents if the veteran's rating is 30 percent or higher.

DIC is payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if the veteran's death was non-service-connected but the veteran was rated as totally disabled for 10 years prior to death. Surviving spouses' DIC rates are based on the veteran's military pay grade. The surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over age 18 who became helpless before reaching age 18 may receive DIC, as well as those age 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

Under section 362 of title 38, the annual clothing allowance is payable to a service disabled veteran whose disability requires the use of a prosthetic device or orthopedic appliance that tends to tear or wear out the veteran's clothing.

Section 101 would increase, by 8.1 percent, the basic rates of compensation as well as the higher rates for certain specified disabilities. Section 102 would increase, by a like percentage, the rates of additional compensation for dependents, and section 103 the annual clothing allowance. Sections 104 through 106 would increase DIC rates by 8.1 percent.

The Veterans' Administration has periodically recommended cost-of-living increases in compensation and DIC benefits to assure that our programs remain responsive to changing economic conditions. We support increases designed to offset inflation's erosion of the purchasing power of these benefits. We therefore propose a percentage increase consistent with the June 1, 1982 indexed cost-of-living adjustment in Social Security and VA pension benefits, an increase the Administration currently estimates will be 8.1 percent.

The increases proposed by Title I would be effective October 1, 1982, and would result in fiscal year 1983 costs of $771 million.

TITLE II—COMPENSATION AMENDMENTS

Section 201 of the bill would amend section 3104 of title 38, relating to the prohibition against duplication of benefits. In the event an unemployable-rated veteran is receiving other Federal monetary benefits for disability or retirement, monthly compensation would be limited to the amount payable on the basis of (1) the veteran's schedular rating or (2) the amount payable on the basis of the unemployable (total) rating, reduced by the amount of other federal benefits for that month, whichever is the greater. This provision would primarily affect those unemployable-rated veterans in receipt of benefits under Title II of the Social Security Act whose schedular ratings for compensation purposes under Subpart B of 38 C.F.R. Part 4, generally known as the "rating schedule," range from 60 to 90 percent; however, veterans so rated who are in receipt of benefits under other Federal disability and retirement programs, such as Black Lung, railroad retirement, or civil service retirement, would also be affected.

The VA has authority under section 355 of title 38, United States Code, to adopt and apply a schedule of disability ratings from 10 to 100 percent. To the extent practicable, ratings are based on the average impairment of earning capacity resulting from such disabilities. It has long been recognized that, in individual instances, the schedular rating is inadequate to provide fair compensation for the effect of the veteran's disability on his or her employability. As stated in 38 C.F.R. § 4.16, it is the established policy of our Agency that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated as totally disabled. The regulatory guidelines provide that, where such unemployability is shown and the veteran is rated 60 percent or more disabled, the total-disability rating may be assigned by regional office authorities. Other cases are to be submitted to Central Office for approval. As of September, 1981, approximately 106,600 veterans had been assigned such extra-schedular ratings. The additional compensation payable in individual cases amounts to several hundred dollars per month.

There is a longstanding policy against the concurrent payment of duplicate compensation benefits to veterans that is applicable where they are also entitled to military retired pay, Federal employees' workers compensation (FECA), or nonservice-connected VA pension. Under section 3105 of title 38, a military retiree must waive an equivalent portion of military retired pay in order to receive compensation. A Federal worker must elect between compensation and FECA benefits if for the same disability, and a veteran entitled to both compensation and pension must elect between the two benefits. These provisions prevent the pyramiding of Federal benefits based on military service.

The Social Security program had its inception in the 1930's as a means of insuring our citizens against the loss of earning capacity in old age. Later, the program was extended to include insurance against the risk of physical or mental disability resulting in unemployability, defined as inability to engage in substantially gainful activity. During World War II, provisions were added to assure that service personnel were not deprived of Social Security credits because of military service. These provisions have been continued over the years, and the result has been that persons serving in the military receive earned Social Security credits for their military service as well as certain deemed credits to make up for any disparity between the coverage they would have had otherwise.

Of the 113.000 veterans receiving compensation based on individual unemployability in early 1981, 28,194—32 percent—were also receiving Social Security disability (SSDI) benefits. The average SSDI payment was $408 per month. Old age Social Security benefits (OASI) were received by 25,306—29 percent; the average payment was $324 per month. The amount of additional compensation by reason of the finding of unemployability currently ranges from $717 per month, if the veteran's schedular rating is 60 percent, to $451 per month, if the veteran's schedular rating is 90 percent. Veterans with dependents receive additional amounts.

Veterans receiving OASI, SSDI, or other Federal disability or retirement benefits generally do not have the intention or capability of re-entering the job market. In these cases, the veteran is already receiving one Federal benefit as a result of his or her condition. In our view, the duplication of benefits provided through the veterans' compensation program is an unwarranted expenditure of Federal Government funds. Especially today, when Federal budgetary restraint is critical to the restoration of the economy's vigor, the American taxpayer should not be expected to support the pyramiding of Federal benefits based on unemployability. At the same time, we recognize the commitment made to veterans suffering from service-connected disability. Thus, this proposal would reduce the amount of compensation payable to an unemployable-rated veteran by the amount of other Federal benefits received for that month, but never below the amount payable on the basis of the veteran's schedular rating.

This section would be effective October 1, 1983, and would result in fiscal year 1984 savings of $282.5 million by reductions applicable to persons on the rolls as of that date.

Section 202 of the bill would amend section 315 of title 38, relating to additional compensation for dependents, by increasing from 30 to 50 percent the level of disability required for payment of such compensation. Under current law, veterans rated 30 percent or more disabled receive additional compensation for dependents. Amounts are prorated according to the percentage of disability. For example, a veteran rated as 30-percent disabled receives 30 percent of the amount that would be paid to a totally disabled veteran with a like number of dependents.

Totally disabled veterans have been eligible for additional compensation for dependents since Civil War days. In 1944, veterans rated 60 percent or more disabled were made eligible for such compensation, and the requisite level of disability was reduced to 50 percent in 1949. This cut-off point was reasonable and fair. Veterans whose disabilities are rated at less than 50 percent are likely to be fully employed and in a position to provide for their families. Over the objections of this Agency, however, Congress reduced the level of required disability to 30 percent in 1978 for reasons bearing no relationship to these veterans' ability to provide for their families without Federal Government aid.

This poorly targeted liberalization added substantial short and long-range costs to the compensation program. The amounts individually payable are relatively small; for example, a veteran rated 30-percent disabled with a spouse and child currently receives an additional $35 per month. However, because the number of 30-percent and 40-percent disabled veterans receiving dependents' allowances is sizeable—approximately 314,400 in fiscal year 1981—the cost is substantial. The outlay for fiscal year 1981 was $111.7 million, and we estimate $124.2 million for this fiscal year. Projected costs for fiscal years 1983 and 1984 total $273.3 million. This provision, which would become effective October 1, 1982, would result in savings approximately equal to these projected costs.

TITLE III—MISCELLANEOUS AMENDMENTS

Section 301 of the bill would add a new section 3011 to chapter 51 of title 38, relating to applications, effective dates, and payments. The new section, titled "Commencement of the Period of Payment Based on an Award," would provide for the commencement of the period for which compensation, dependency and indemnity compensation (DIC), and pension benefits are paid to be the first day of the month following the month in which the award is effective. Under section 3010 of title 38, awards become effective at various times. For example, a compensation award is effective on the day following the day of a veteran's discharge if the veteran's claim is filed within one year. Otherwise, the award is effective on the date the claim is filed. A DIC award is effective on the first day of the month in which the death occurred, if the survivor's claim is filed within one year; otherwise, on the date the claim is filed. Other specific effective dates are provided for such contingencies as an increased rating for compensation purposes, allowance of a reopened claim involving the correction of military records, and the establishment of eligibility for benefits based on nonservice-connected disabilities. The effective date of an award is important for many title 38 purposes that are unrelated to the payment of benefits, for example, eligibility for certain health-care priorities, protection of service connection or disability ratings, or eligibility for other benefits such as vocational rehabilitation or automobile adaptive assistance. Under current law, the commencement of the period for payment of monetary benefits is coextensive with the effective date of the award, even though payment does not actually begin until later. Because the adjudicative process in almost all cases takes a reasonable amount of time, it is routine for the beneficiary's first payment to contain a retroactive component. For example, if a veteran is discharged on July 15 and files a compensation claim on August 15, even the promptest adjudication of the claim cannot occur overnight; assuming that extensive development is not required, the veteran may receive his first check by October 1, but it will be retroactive to July 16.

This proposal would simply defer commencement of the payment period until the first day of the month following the month in which the award itself became effective. This provision would not affect the effective date of the award for any purpose, or the special payment under section 3110 of title 38, United States Code, to certain surviving spouses. In the example cited above, payment would be retroactive to August 1, but the veteran's service-connected disability status would be established as of July 16, and the veteran's rating would relate back to that date, as would eligibility for any benefit derived from service-connected status. Similarly, if a veteran's death occurred on March 15, the survivor's DIC eligibility would relate back to the first day of March (if claim is filed within one year) but payment would commence April 1. However, in the event the veteran's payment for the month of March would have been greater than the survivor's monthly DIC payment, the survivor would receive the higher amount, as under current law.

This provision would be effective on July 1, 1982. It would be simple to administer, would achieve cost savings of approximately $28.8 million in fiscal year 1983, and would in almost all cases simply reduce the amount of the retroactive benefits portion of the first payment. The amount of reduction in most cases would be relatively small.

Section 302 would amend section 3012 of title 38, relating to effective dates for reductions and discontinuances, by providing that, where a benefit is to be reduced or discontinued by reason of a dependent's or survivor's marriage or death, or a veteran's divorce or annulment, the effective date for reduction or discontinuance shall be the last day of the month in which the event occurred. Under current law, this date is the last day of the calendar year. This means that a veteran or survivor may receive benefits intended for the support of dependents for as many as eleven months after the dependent has died or the beneficiary is no longer legally responsible for the dependent's support. This is unreasonable and inconsistent with other title 38 provisions relating to reductions and discontinuances. We anticipate savings of $3.2 million during fiscal year 1983 from this proposal, which would be effective October 1, 1982.

Section 303 of the bill would amend section 3020 of title 38, relating to the payment of benefits, to provide for the payment of need-based VA pension benefits (other than protected pension payable under section 306(b) of Public Law No. 95–588) in round dollar amounts.

Under current law, the VA through its administrative machinery certifies each month to the Treasury Department the exact amounts to be paid to its beneficiaries, and Treasury makes the actual disbursements. Many, if not most, pension payments are made in unrounded amounts. This provision would grant authority to the VA to round pension benefit payment amounts to the next lower dollar. For example, if the calculated amount to be paid is $60.39, payment would actually be certified and made (by check or electronic transfer) for $60.00. The savings from this proposal, effective July 1, 1982, would be approximately $10.8 million in fiscal year 1983 and comparable amounts in future fiscal years, yet the annual impact on any one beneficiary would be very small—much less than $12 in the typical case. Although technically different, this provision would be consistent with the recent amendment of the Social Security Act in the Omnibus Reconciliation Act of 1981 (Public Law No. 97–35).

Section 304 would amend section 501 of title 38, relating to definitions applicable to the nonservice-connected pension programs, to provide that, for the purpose of the improved pension program, the definition of "child" would include children up to the age of 19 if they are attending secondary school but would not include college students over the age of 18. This amendment, effective October 1, 1982, would thus terminate new pension eligibility based on a child's college attendance. It would not affect the eligibility of persons who, prior to reaching age 18, become permanently incapable of self-support or pension eligibility based on a child's college attendance in cases where the child is attending college as of September 1982. Under section 304, certain reductions and limitations would, however, be applied to those beneficiaries entitled as of September 30, 1982.

Under current law, a veteran or surviving spouse entitled to need-based improved pension benefits under chapter 15 of title 38 may receive additional benefits for children up to the age of 18. Also, section 306 pensioners—those receiving pension under section 306(a) of Public Law No. 95–588—may receive such benefits. Where there is no eligible surviving spouse, a veteran's needy surviving child may receive benefits in the child's own right, up to the age of 18. Where a "child" age 18 to 23, i.e., an adult student, is attending an approved educational institution, the dependents' allowance or the students' benefit continues during such attendance.

This provision would terminate the eligibility of veterans and surviving spouses for additional pension based on a child's college attendance during ages 18 to 23, as well as the eligibility of surviving children in the child's own right, when the child reaches age 18 after September

30, 1982. However, the eligibility of current beneficiaries (where the child has attained age 18 prior to September 30, 1982, and is enrolled in college for the month of September 1982) would be protected during the child's uninterrupted continuation of college attendance, subject to certain limitations. First, benefits would not be paid for the summer months—May through August, beginning in 1982. Second, that portion of the improved pension benefit attributable to the child, or the entire benefit if paid in the child's own right, would be held to the August 1981 level or a later month, if deemed appropriate in a particular case (for example, January 1982 might be appropriate if eligibility begins in December 1981), reduced by 25 percent for the months of September 1982 through April 1983, by 50 percent for the months of September 1983 through April 1984, and by 75 percent for the months of September 1984 through April 1985. No benefits would be payable after July 1985.

These provisions would apply both to pensioners (veterans, surviving spouses, and surviving children) under the improved pension program and those receiving protected pension under section 306(a) of Public Law No. 95–588.

Because it was felt that the payment of Social Security survivors' benefits to young adults attending college is not a well-targeted use of the limited funds available to the Social Security program (in view of the many other educational assistance programs available to college students), Congress recently, in section 2210 of the Omnibus Budget Reconciliation Act of 1981, eliminated new benefits for student beneficiaries 18 or older in post-secondary school and 19 or older in secondary school, effective in August 1982. Reduction in benefits, comparable to those we propose here, were also made for current student beneficiaries, to be phased in over several years.

This provision—which will enable pensioners to continue receiving additional benefits for their children up to age 19 attending secondary school but eliminate future derivative pension benefits for adult college students and phase in, over a period of time, reductions in benefits for current beneficiaries—is thus consistent in part with the change in the Social Security program. Federal, State, and private programs to provide assistance to needy college students are already in place and provide a targeted approach to meeting their needs.

The amendment to title 38 would be effective October 1, 1982, and the other limitations and reductions would take effect upon enactment. Savings are estimated as $13.4 million in fiscal year 1983.

OVERALL COSTS AND SAVINGS

Title I of the draft bill, if enacted, would result in costs for each of the next 5 fiscal years estimated to be $771 million in fiscal year 1983, $776.1 million in fiscal year 1984, $779.8 million in fiscal year 1985, $783.9 million in fiscal year 1986, and $787.6 million in fiscal year 1987.

Titles II and III of the draft bill, if enacted, would result in considerable cost savings. Set forth below are projected savings for each of the next 5 fiscal years:

[By fiscal years, in thousands of dollars]

	1982	1983	1984	1985	1986	1987
Sec. 201			−282,500	−296,000	−310,200	−336,100
Sec. 202		−135,300	−138,000	−140,600	−150,200	−152,800
Sec. 301	−3,400	−28,800	−30,700	−32,400	−34,100	−36,800
Sec. 302		−3,225	−3,536	−3,937	−4,216	−4,592
Sec. 303	−1,400	−10,800	−10,400	−10,100	−9,900	−9,700
Sec. 304		−13,400	−18,100	−21,700	−24,600	−22,600
Total	−4,800	−191,525	−483,236	−504,737	−533,216	−562,592

Advice has been received from the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

ROBERT P. NIMMO, *Administrator.*

A BILL To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs; and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$63";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$116";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$175";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$251";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$355";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$446";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$563";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$653";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$734";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,222";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,517" and "$2,125", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,517";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,672";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,900";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,125";

(16) by striking out "$844" and "$1.257" in subsection (r) and inserting in lieu thereof "$912" and "$1,359", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,366"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$264".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$69" in clause (A) and inserting in lieu thereof "$75";

(2) by striking out "$116" in clause (B) and inserting in lieu thereof "$125";

(3) by striking out "$153" in clause (C) and inserting in lieu thereof "$165";

(4) by striking out "$192" and "$38" in clause (D) and inserting in lieu thereof "$208" and "$41", respectively;

(5) by striking out "$47" in clause (E) and inserting in lieu thereof "$51";

(6) by striking out "$86" in clause (F) and inserting in lieu thereof "$93";

(7) by striking out "$123" and "$38" in clause (G) and inserting in lieu thereof "$133" and "$41", respectively;

(8) by striking out "$56" in clause (H) and inserting in lieu thereof "$61";

(9) by striking out "$125" in clause (I) and inserting in lieu thereof "$135"; and

(10) by striking out "$105" in clause (J) and inserting in lieu thereof "$114".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$330".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$449	W-4	$643
E-2	463	0-1	568
E-3	473	0-2	586
E-4	504	0-3	627
E-5	518	0-4	663
E-6	530	0-5	731
E-7	556	0-6	823
E-8	586	0-7	891
E-9	[1] 613	0-8	976
W-1	568	0-9	1,049
W-2	590	0-10	[2] 1,147
W-3	608		

[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $659.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,230.

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$52".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$135".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$67".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$227";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$325";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$421"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$421" and "$85", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended —

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$135";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$227"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$116".

TITLE II—COMPENSATION AMENDMENTS

SEC. 201. Section 3104 is amended by adding at the end thereof the following new subsection:

"(d) Where a rating of total disability based on individual unemployability resulting from service-connected disability has been assigned to any veteran in receipt of benefits under Title II of the Social Security Act or any other Federal program providing monetary benefits for disability or retirement, compensation under section 314 or 315 of this title for any month beginning after September 30, 1983, shall not exceed the greater of—

"(1) the amount payable to the veteran on the basis of the veteran's rating under Subpart B of Part 4 of title 38, Code of Federal Regulations, or

"(2) the amount payable to the veteran on the basis of the veteran's rating of total disability by reason of individual unemployability, reduced by the amount of benefits payable for that month under Title II of the Social Security Act or such other Federal program.".

SEC. 202. Section 315, as amended by section 102 of this Act, is further amended by striking out "30 per centum," both places it appears and inserting in lieu thereof "50 per centum,".

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. Chapter 51 of title 38, United States Code, is amended—

(a) by inserting after section 3010 the following new section:

"§ 3011. Commencement of the period of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension shall not be made for any period prior to the first day of the calendar month following the month in which the award became effective as provided under such section 3010 or other provision of law.

"(b) (1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period prior to such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.", and

(b) by inserting in the table of sections at the beginning of such chapter, after the item relating to section 3010, the following new item:

"3011. Commencement of the period of payment based on an award.".

SEC. 302. Clause (2) of subsection (b) of section 3012 is amended by striking out "of the calendar year" and inserting in lieu thereof "of the month".

SEC. 303. Section 3020 is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this title, any payment of monetary benefits under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95–588) or sections 521, 541, or 542 of this title shall be made only in an amount that is a multiple of $1.

"(2) In determining the amount of any such payment, the Administrator shall—

"(A) first determine the amount payable without regard to paragraph (1) of this subsection and

"(B) if such amount is not a multiple of $1, then round such amount to the next lower multiple of $1.

"(3) The amount payable to a person under paragraph (1) of this subsection shall be considered as the amount of that person's monetary benefits for the purpose of all laws administered by the Veterans' Administration, and no person shall have any claim to the difference between the amount determined under clause (A) of paragraph (2) of this subsection and the amount payable under paragraph (1).".

SEC. 304. (a) Section 501 is amended by adding at the end thereof the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term "child" shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term "child" includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) of this section shall not apply to any child to or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 if such child has attained the age of eighteen years prior to October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112, or section 306(a) of Public Law 95–588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 or section

306(a) of Public Law 95–588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall—

(A) not be paid for the months of May, June, July, and August, beginning with the month of May 1982;

(B) not be paid for any month after July 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of August 1981 (or a later month if the Administrator deems a later month appropriate under the circumstances), reduced by an amount—

(i) during the months after July 1982 and before August 1983, equal to 25 percent of the benefit payable for August 1981 (or such later month);

(ii) during the months after July 1983 and before August 1984, equal to 50 percent of the benefit payable for August 1981 (or such later month); and

(iii) during the months after July 1984 and before August 1985, equal to 75 percent of the benefit payable for August 1981 (or such later month); and

(D) not be paid for any month after July 1982 if such pension or additional pension is discontinued at any time after July 31, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who—

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

TITLE IV—EFFECTIVE DATES

Sec. 401. (a) The amendments made by sections 301 and 303 of this Act shall take effect on July 1, 1982.

(b) The amendments made by Title I and sections 202, 302, and 304(a) of this Act shall take effect on October 1, 1982.

(c) The amendment made by section 201 of this Act shall take effect on October 1, 1983.

(d) The provisions of subsections (b) and (c) of section 304 of this Act shall take effect upon the date of the enactment of this Act.

Veterans Administration,
Office of the Administrator of Veterans Affairs,
Washington, D.C., March 24, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: I am enclosing a draft bill to amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) proceeds in the event the claim is filed more than four years after the insured's death. The bill would also clarify that SGLI–VGLI proceeds may not escheat to a State.

When a SGLI or VGLI claim is not filed within four years of the insured's death, present section 770(c) provides that the proceeds shall "escheat" to the SGLI revolving fund established under section 769(d)(1). The legislative history of a comparable provision added in 1962 to the Federal Employees' Group Life Insurance (FEGLI) program indicates that Congress intended to prevent unclaimed FEGLI proceeds from escheating to the insured's State of domicile, a purpose that is applicable to unclaimed SGLI–VGLI proceeds as well. However, nothing in the legislative history of section 770(c) indicates that Congress specifically intended to bar the payment of proceeds to otherwise entitled claimants whose claims are not filed within the four-year period. This bill, by amending section 770(c) to delete the language pertaining to escheat, from which a bar to payment of such claims is implied, would permit payment regardless of when the claim is filed, and thus make the SGLI–VGLI program consistent in this regard with the National Service Life Insurance (NSLI) and United States Government Life Insurance (USGLI) programs.

Both the NSLI and USGLI programs also specifically prohibit the escheat of NSLI and USGLI proceeds to a State. Otherwise such an escheat could occur, for example, if the insured dies without any relatives, or if a named beneficiary without any relatives dies prior to payment. The bill adds specific language to section 770 to prohibit the escheat of SGLI–VGLI proceeds and, where the proceeds are to be paid to an estate, to require affirmative evidence that the end result will not be an escheat.

There are no costs associated with the draft bill, which would be effective October 1, 1982.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposal to the Congress.

Sincerely,

ROBERT P. NIMMO, *Administrator.*

Enclosure.

A BILL To amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance and Veterans' Group Life Insurance proceeds in the event the claim is filed late and to clarify that such proceeds may not escheat to a State

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled, That section 770 of title 38, United States Code, is amended by—

(a) by amending subsection (c) by striking out the second sentence and

(b) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

SEC. 2. The amendment made by this Act shall take effect on October 1, 1982.

VETERANS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, D.C., June 3, 1982.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for the views of the Veterans Administration on H.R. 6041, 97th Congress. This bill would require the VA to furnish flags to drape the caskets of individuals buried in Arlington National Cemetery or in a National Cemetery under VA jurisdiction, if the individual is interred pursuant to the Administrator's discretionary authority under section 1002(6) of title 38.

As the Chief Benefits Director testified before the Subcommittee on Compensation, Pension and Insurance on April 22, 1982, we are opposed to this legislation.

Currently, we furnish burial flags for all wartime veterans and all peacetime veterans of service after January 1955, as well as certain other peacetime veterans. We also furnish flags for those who died on active duty. We do not furnish flags for non-veterans.

Arlington National Cemetery is under the jurisdiction of the Department of Defense. Certain veterans, as well as certain Federal officials who are not necessarily veterans, are eligible for Arlington burial. If an individual is eligible, his or her dependents and survivors may also be eligible. H.R. 6041 would require us to furnish flags to drape the caskets of these non-veterans.

Section 1002(6) permits the Administrator of Veterans Affairs to authorize the burial in a National Cemetery of a person ineligible under clauses (1) through (5) of that section. To my knowledge, this authority has been exercised only once, in the case of a former State Department official who was not a veteran.

The burial flag is an honor bestowed on deceased veterans in recognition of their service to the Nation. In our view, the VA's authority to furnish burial flags should continue to be limited to veterans' burials, and, of course, the burials of those who die on active duty. We oppose the expansion of this authority for non-veterans.

Benefit and administrative costs arising as a result of the enactment of H.R. 6041 would be insignificant.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT P. NIMMO,
Administrator.

Veterans Administration,
Office of the Administrator of Veterans Affairs,
Washington, D.C., June 4, 1982.

Hon. G. V. (Sonny) Montgomery,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I am pleased to respond to your request for a report on H.R. 6040, 97th Congress. The bill would amend present law to authorize payment of up to $300 in burial and funeral expenses in cases of certain indigent veterans whose bodies are held by a State, or political subdivision thereof, and who were either wartime veterans or were discharged from active service for disabilities incurred or aggravated in line of duty, but at death were not in receipt of either disability compensation or pension. The requirement that veterans be in receipt of compensation or pension was imposed under provisions of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35.

For reasons set forth below, we oppose enactment of this bill.

Prior to enactment of Public Law 97-35, entitlement of up to $300 in funeral and burial expenses and a plot allowance of $150 (for burial in other than a national cemetery) was automatic for all wartime veterans, all veterans discharged from active service for disabilities incurred or aggravated in line of duty, or all veterans whose deaths resulted from service-connected disabilities. 38 U.S.C. §§ 902(a) and 903(b). (Since 1973, larger payments can be authorized to defray expenses of funeral and burial when a death is service connected; currently, up to $1,100 may be paid in lieu of the other burial and plot allowances.)

As amended by Public Law 97-35, section 902(a) of title 38 now provides entitlement to the $300 burial and funeral-expense reimbursement only in cases of veterans who at death were in receipt of (or but for the receipt of retired pay were entitled to) compensation, or in receipt of pension. Entitlement to the $150 plot allowance was not so restricted, nor was any change made in VA's authority to defray expenses for deaths occurring in VA health-care facilities. Also unaffected was VA's authority to provide reimbursement in cases of deaths resulting from service-connected disabilities.

H.R. 6040 would require the following determinations by the VA before an award could be authorized on behalf of a State or political subdivision holding an indigent veteran's body: (1) that the veteran either had wartime service or was discharged from active duty for a disability incurred or aggravated in line of duty; (2) that no next of kin or other party is claiming the body; and (3) that sufficient funds are not available from the veteran's estate, if any, or other sources, to defray burial and funeral expenses. Of these, the latter determination would prove to be the most burdensome and could result in disproportionately high administrative costs.

Our experience with the burial of indigent veterans does not suggest a national problem of such magnitude as to warrant remedial legislation. A survey conducted by the VA indicated there were fewer than 600 claims for burial benefits involving unclaimed bodies of indigent veterans during 1981 and that between January 1 and February 18, 1982, only 50 such claims were received. Further, our research of State laws revealed that a substantial majority of States provide in one form or another, and in varying amounts, for burial and funeral expenses of indigent veterans. We believe that to be an appropriate State or local prerogative with respect to veterans who did not qualify for receipt of VA compensation or pension benefits.

As stated above, the VA opposes enactment of H.R. 6040.

We estimate its enactment would result in added benefit costs of less than $1 million in any fiscal year and administrative costs of less than $100,000 for any fiscal year.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN P. MURPHY
(For and in the absence of
Robert P. Nimmo, Administrator).

VETERANS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, D.C., June 14, 1982.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for a report on H.R. 5144, 97th Congress. This bill would amend section 101(22) of title 38, United States Code, in order to provide compensation eligibility to members of Senior Reserve Officers' Training Corps programs who are disabled during annual training duty, in cases when the member has been ordered to such duty for fourteen days or more.

As indicated by the Chief Benefits Director in testimony before the Subcommittee on Compensation, Pension, and Insurance on April 22, 1982, we oppose the enactment of this legislation.

H.R. 5144 would include, within the definition of "active duty for training" set forth in section 101(22) of title 38, all annual training duty performed by a member of a Senior Reserve Officers' Training Corps (ROTC) program when the member has been ordered to such duty for a period of fourteen days or more. By virtue of section 101 (24) of title 38, an ROTC member disabled from an injury or disease incurred or aggravated in the line of duty during annual training duty would, under H.R. 5144, have the requisite "active military, naval, or air service" that is a predicate for an award of compensation under chapter 11 of title 38.

Currently, college students enrolled in Army, Navy, or Air Force ROTC programs are required to enlist in a reserve component of the Armed Forces, but the timing of the actual enlistment varies from program to program. Four-year ROTC programs generally require reserve enlistment at the beginning of the third year of college before the member is allowed to participate in advanced training. However, the Naval ROTC Scholarship program requires enlistment prior to the first year of college. Some two-year ROTC pograms, available beginning with the third year of college, require enlistment as a condition of participation. The timing of annual training duty in the form of summer camps and practice cruises also varies from program to program. The Navy program requires reserve enlistment prior to any practice cruise, but the Army two-year program requires a six-week summer camp before reserve enlistment, and the Air Force program requires summer camp between the second and third college years before reserve enlistment.

There are, therefore, two categories of ROTC members who participate in annual training duty: those who have enlisted in a reserve component and thus have incurred a military obligation and those who have not. The former may informally be characterized as "regular" members and the latter as "contract" or "civilian" members. Annual training duty by a regular member meets the definition of "active duty for training" under section 101(22) of title 38 and, should the member be disabled, section 101(24) confers the requisite status for compensation and certain other service-connected benefits. For this group, H.R. 5144 is unnecessary.

A civilian member who incurs an injury during annual training duty is eligible for Federal Employees Compensation by virtue of section 8140 of title 5, United States Code. In the event of the member's death, dependency and indemnity compensation benefits are payable to the member's survivors by virtue of section 403 of title 38.

In our view, these provisions adequately cover the risk of a civilian ROTC member's disability or death. Moreover, we do not believe that this Agency should be placed in the position of compensating individuals who have never incurred a military obligation. For these reasons, we oppose the enactment of H.R. 5144.

According to the Department of Labor, which administers the Federal Employees Compensation Program, few ROTC members receive Federal Employees Compensation. We thus have no reason to assume that the enactment of H.R. 5144 would result in significant benefit or administrative costs in any fiscal year.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT P. NIMMO, *Administrator.*

VETERANS ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, D.C., June 1, 1982.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reply to your request of April 7, 1982, we are pleased to provide the views of the Veterans Administration (VA) on H.R. 6039, 97th Congress, and our cost estimates for the bill.

The bill proposes to amend title 38, United States Code, to correct a "technical error" with respect to entitlement to dependency and indemnity compensation (DIC). Under the current provisions of section 410 (b), even though death is not due to a service-connected disability, eligibility may be established if death is not due to the veteran's own willful misconduct and the veteran was in receipt of (or but for receipt of military retired pay was entitled to receive) compensation at the time of death for a service-connected disability which was continuously rated totally disabling for a period of ten years or more immediately preceding death, or if so rated for a lesser period, for not less than five years from the date of discharge. This bill would extend eligibility to those who would have qualified under 38 U.S.C. § 410(b) had the VA not made a clear and unmistakable error.

Although this proposal is styled as a "technical" amendment, we believe its enactment would be contrary to the purpose underlying the current 38 U.S.C. § 410(b) and accordingly oppose it.

Prior to 1978, payment of DIC benefits was restricted to the survivors of those servicemembers who died on active duty or veterans who died post-service as a result of "service-connected" disabilities. However, it was brought to Congress' attention by the Blinded Veterans Association and other veterans' groups that certain service-connected disabilities, such as blindness, warrant a disability rating of 100 percent but are rarely found as contributing to the cause of death. Accordingly, DIC benefits were generally not made available to survivors of these totally disabled veterans.

As a result, section 204 of the Veterans' Disability Compensation and Survivors' Benefits Act of 1978 (Pub. L. No. 95–479; 92 Stat. 1564), which added the current 38 U.S.C. § 410(b), came into being.

VA opposed enactment of similar bills pending before the 95th Congress, primarily on the basis that they would compromise the DIC program. DIC benefits were originally intended to meet the greater obligation owed to survivors of veterans whose deaths are actually service related. Nonetheless, passage was to come, primarily on the strength of arguments that lengthy reliance on compensation paid at the 100 percent rate creates extraordinary hardships when the veterans die and payments cease.

Clearly, arguments concerning reliance on the 100 percent rating payments are less and less forceful as the intervening time between veterans' ratings of total disability and ensuing death shortens. If compensation payments at high, total disability dates have not (for whatever reason) been relied upon for the minimum durations specified in 38 U.S.C. § 410(b), the primary rationale for awarding special survivors' benefits is lost.

The policy considerations do not demand the remedy embodied in H.R. 6039 when the equities of the situation are examined. This bill contemplates a situation in which the VA determines, belatedly, that a veteran's disability rating was, for a time, erroneously low. There are, of course, available remedies when a veteran believes an assigned disability rating is wrong. The regional office can be petitioned for a reconsideration, or an appeal to the Board of Veterans Appeals may be taken. A request for reconsideration of an adverse Board decision may be filed. If there has been "clear and unmistakable" error in assigning the disability rating, it is very unlikely it would go unremedied should a veteran exhaust all avenues of redress.

In view of the foregoing, the VA opposes enactment of H.R. 6039. In assessing the costs associated with its enactment, we have necessarily assumed that the Administrator would apply the benefit to eligible veterans' survivors at the maximum rates provided by law.

Nevertheless, this proposal will result in insignificant benefit costs (less than $1 million) as few additional claims would be granted. This proposal may, however, have significant administrative costs (greater than $100,000) if over 2,000 requests are received to reopen claims.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT P. NIMMO, *Administrator*.

VETERANS' ADMINISTRATION,
DEPARTMENT OF VETERANS BENEFITS,
Washington, D.C., July 9, 1982.

Hon. G. V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On June 1, 1982, the Veterans' Administration reported to you adversely on H.R. 6039, 97th Congress, and I had testified to the same effect before the Subcommittee on Compensation, Pension and Insurance on April 22.

Since that time, we have reconsidered our position in light of the remedial purpose of the bill. I wish to advise you that the Veterans' Administration now favors its enactment, and I will be so testifying before the Senate Committee on Veterans' Affairs on July 13 with respect to an identical measure, S. 2709.

Sincerely yours,

DOROTHY L. STARBUCK, *Chief Benefits Director*.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART I. GENERAL PROVISIONS

* * * * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * * * *

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law; [and]

(D) annual training duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for a period of fourteen days or more; and

[(D)] *(E)* authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * * * *

Subchapter II—Wartime Disability Compensation

* * * * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be [$58] *$62*;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be [$107] *$114*;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be [$162] *$173*;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be [$2[illegible]] *$249*;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be [$328] *$352*;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be [$413] *$443*;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be [$521] *$559*;

(h) if and while the disability is rated 80 per centum the monthly compensaton shall be [$604] *$648*;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be [$679] *$729*;

(j) if and while the disability is rated as total the monthly compensation shall be [$1,130] *$1,213*;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $62 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,403] *$1,506* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$1,966] *$2,111* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,403] *$1,506*;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,547] *$1,661*;

(n) If the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, *or has suffered blindness without light perception in both eyes*, the monthly compensation shall be [$1,758] *$1,888*;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$1,966] *$2,111*;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$1,966.] *$2,111.* In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear *or service-connected anatomical loss or loss of use of one hand or one foot*, the Administrator shall allow the next intermediate rate, but in no event in excess of [$1,966.] *$2,111.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$1,966.] *$2,111.* Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned;

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

> (1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$844] *$906*; or
>
> (2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,257.] *$1,350*, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be **[**$1,264.**]** *$1,357.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willfull misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by **[**$244.**]** *$262.*

(2) If a veteran described in paragraph (1) of this subsection receive any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child living, **[**$69**]** *$74*;

(B) has a spouse and one child living, **[**$116**]** *$124*;

(C) has a spouse and two children living, **[**$153**]** *$164*;

(D) has a spouse and three or more children living, **[**$192**]** *$206* (plus **[**$38**]** *$40* for each living child in excess of three);

(E) has no spouse but one child living, **[**$47**]** *$50*;

(F) has no spouse but two children living, **[**$86**]** *$92*;

(G) has no spouse but three or more children living, **[**$123**]** *$132* (plus **[**$38**]** *$40* for each living child in excess of three);

(H) has a parent dependent upon such veteran for support, then, in addition to the above amounts, **[$56]** *$60* for each parent so dependent;

(I) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be **[$125]** *$134* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(J) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be **[$105]** *$112* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

(2) If and while rated partially disabled, but not less than 30 per centum, in an amount having the same ratio to the amount specified in paragraph (1) of this section as the degree of disability bears to total disability. **[**The amounts payable under this paragraph shall be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.**]** *The amounts payable under this paragraph, if not a multiple of $1, shall be adjusted downward to the nearest dollar.*

* * * * * * *

Subchapter VI—General Compensation Provisions

* * * * * * *

§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of **[$305]** *$327* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

* * * * * * *

Subchapter II—Dependency and Indemnity Compensation

§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies~~, not as~~ the result of the veteran's own willful misconduct, if the veteran was in receipt of *or entitled to receive* (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service-connected.

*   *   *   *   *   *   *

§ 411. Dependency and indemnity compensation to a surviving spouse

[(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E–1	$415	W–4	$595
E–2	428	O–1	525
E–3	438	O–2	542
E–4	466	O–3	580
E–5	479	O–4	613
E–6	490	O–5	676
E–7	514	O–6	761
E–8	542	O–7	824
E–9	567	O–8	903
W–1	525	O–9	970
W–2	546	O–10	1,061
W–3	562		

]

[[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $610.

[[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,138.]

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose

death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	*$445*	*W-4*	*$639*
E-2	*459*	*O-1*	*563*
E-3	*470*	*O-2*	*582*
E-4	*500*	*O-3*	*622*
E-5	*514*	*O-4*	*658*
E-6	*526*	*O-5*	*726*
E-7	*552*	*O-6*	*817*
E-8	*582*	*O-7*	*884*
E-9	[1] *608*	*O-8*	*969*
W-1	*563*	*O-9*	*1,041*
W-2	*586*	*O-10*	[2] *1,139*
W-3	*603*		

[1] *If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.*

[2] *If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.*

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$48] *$51* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$125] *$134* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$62] *$66* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * * * *

§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, [$210] *$225*;
(2) two children, [$301] *$323*;
(3) three children, [$389] *$417*; and
(4) more than three children, [$389,] *$417*, plus [$79] *$84* for each child in excess of three.

* * * * * * *

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by [$125.] *$134.*

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$210.] *$225.*

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$107.] *$114.*

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CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

* * * * * * *

Subchapter I—General

§ 501. Definitions

For the purposes of this chapter—

(1) The term "Indian Wars" means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term "World War I" includes, in the case of any veteran, any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term "Civil War veteran" includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term "active military or naval service" includes active service in those forces.

(4) The term "period of war" means the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term "child" shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

(B) The term "child" includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.

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CHAPTER 19—INSURANCE

* * * * * * *

§ 770. Beneficiaries; payment of insurance

(a) * * *

* * * * * * *

(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administrator nor the administrative office established by the insurance company or companies pursuant to section 766(b) of this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administrator be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. [If, within four years after the death of the member or former member, payment has not been made pursuant to this section and no claim for payment by any person entitled under this section is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 769(d).]

* * * * * * *

(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would otherwise escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any sum to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.

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CHAPTER 23—BURIAL BENEFITS

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§ 901. Flags

(a) * * *

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(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery under eligibility for burial under section 1002(6) of this title. After the

burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate.

§ 902. Funeral expenses

(a) [When a veteran dies who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or in receipt of pension, the Administrator,] *When a veteran dies—*

(1) who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or who was in receipt of pension; or

(2) in the case of a veteran of any war or a veteran who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State) and with respect to whom the Administrator determines—

(A) that there is no next of kin or other person claiming the body of the deceased veteran; and

(B) that there are not available, from the deceased veteran's estate or otherwise, sufficient resources to defray the cost of the burial and funeral of the deceased veteran,

the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $300 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

* * * * * * *

§ 903. Death in Veterans' Administration facility; plot allowance

(a) [Where death occurs in a Veterans' Administration facility] *When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)* to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 610 or 611(a) of this title *or in an institution to which the deceased was properly transferred for nursing home care under section 620 of this title*, the Administrator—

(1) shall pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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Subchapter III—Entitlement; Duration

§ 1631. Entitlement; loan eligibility

(a) * * *

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[(c) When an eligible veteran is pursuing a program of education under this chapter by correspondence, such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).]

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE; DEFINITIONS

Sec.
1651. Purpose.
1652. Definitions.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

1661. Eligibility; entitlement; duration.
1662. Time limitations for completing a program of education.
1663. Educational and vocational counseling.

SUBCHAPTER III—ENROLLMENT

1670. Selection of program.
1671. Applications; approval.
1673. Disapproval of enrollment in certain courses.
1674. Discontinuance for unsatisfactory conduct or progress.
1676. Education outside the United States.
1677. [Repealed, Public Law 97-35, § 2003(a)(3)(A)].

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

1681. Educational assistance allowance.
1682. Computation of educational assistance allowances.
1682A. Accelerated payment of educational assistance allowances.
1683. Approval of courses.
1684. Apprenticeship or other on-job training [; correspondence courses.].
1685. Veteran-student services.
1686. Education loans.

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

1690. Purpose.
1691. Elementary and secondary education and preparatory educational assistance.
1692. Special supplementary assistance.
1693. Effect on educational entitlement.

Subchapter I—Purpose—Definitions

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§ 1652. Definitions

For the purposes of this chapter and chapter 36 of this title—

(a) * * *

* * * * * * *

(c) The term "educational institution" means any public or private elementary school, secondary school, vocational school, [correspondence school,] business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults.

* * * * * * *

Subchapter IV—Payments to Eligible Veterans; Veteran-Student Services

§ 1681. Educational assistance allowance

General

(a) The Administrator shall, in accordance with the applicable provisions of this section and chapter 36 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

Institutional Training

(b) The educational assistance allowance of an eligible veteran pursuing a program of education[, other than a program exclusively by correspondence,] at an educational institution shall be paid as provided in chapter 36 of this title.

* * * * * * *

[§ 1684. Apprenticeship or other on-job training; correspondence courses

[Any eligible veteran may pursue a program of apprenticeship or other on-job training or a program of education exclusively for correspondence and be paid an educational assistance allowance or training assistance allowance, as applicable, under the provisions of section 1787 or 1786 of this title.]

§ 1684. Apprenticeship or other on-job training

Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.

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CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—DEFINITIONS

Sec.
1700. Purpose.
1701. Definitions.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

1710. Eligibility and entitlement generally.
1711. Duration of educational assistance.
1712. Periods of eligibility.
1713. Application.
1714. Processing of applications.

SUBCHAPTER III—PROGRAM OF EDUCATION

1720. Development of educational plan.
1721. Final approval of application.
1723. Disapproval of enrollment in certain courses.
1724. Discontinuance for unsatisfactory progress.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

1731. Educational assistance allowance.
1732. Computation of educational assistance allowance.
1733. Special assistance for the educationally disadvantaged.
1734. Apprenticeship or other on-job training [; correspondence courses].

* * * * * * *

Subchapter I—Definitions

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§ 1701. Definitions

(a) For the purpose of this chapter and chapter 36 of this title—

(1) * * *

* * * * * * *

(6) The term "educational institution" means any public or private secondary school, vocational school, [correspondence school,] business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

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Subchapter IV—Payments to Eligible Persons

* * * * * * *

§ 1734. Apprenticeship or other on-job training[; correspondence courses]

[(a)] Any eligible person shall be entitled to pursue, in a State, a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.

[(b) Any eligible spouse or surviving spouse shall be entitled to pursue a program of education exclusively by correspondence and be paid an educational assistance allowance as provided in section 1786 of this title.]

* * * * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

SUBCHAPTER I—STATE APPROVING AGENCIES

Sec.
1770. Scope of approval.
1771. Designation.
1772. Approval of courses.
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1775. Approval of accredited courses.
1776. Approval of nonaccredited courses.
1777. Approval of training on the job.
1778. Notice of approval of courses.
1779. Disapproval of courses.
1780. Payment of educational or subsistence assistance allowances.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

1781. Limitations on educational assistance.
1782. Control by agencies of the United States.
1783. Conflicting interests.
1784. Reports by veterans, eligible persons, and institutions; reporting fee.
1785. Overpayments to eligible persons or veterans.
[1786. Correspondence courses.]

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Subchapter I—State Approving Agencies

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§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training [, other than a program by correspondence,] in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 1504, 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuant of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or

in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;

(3) to any eligible veteran or person for auditing a course;

(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances; *or*

[(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution; or**]**

[(6)**]** *(5)* to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) to the extent the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.

Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2);

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2); or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2).

[Correspondence Training Certifications

[(b) No educational assistance allowance shall be paid to an eligible veteran or spouse or surviving spouse enrolled in and pursuing a program of education exclusively by correspondence until the Administrator shall have received—

[(1) from the eligible veteran or spouse or surviving spouse a certificate as to the number of lessons actually completed by the veteran or spouse or surviving spouse and serviced by the educational institution; and

[(2) from the training establishment a certification or an endorsement on the veteran's or spouse's or surviving spouse's certificate, as to the number of lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.**]**

Apprenticeship and Other On-Job Training

[(c)**]** (*b*) No training assistance allowance shall be paid to an eligible veteran or eligible person enrolled in and pursuing a program of apprenticeship or other on-job training until the Administrator shall have received—

(1) from such veteran or person a certification as to such veteran's or person's actual attendance during such period; and

(2) from the training establishment a certification, or an endorsement on the veteran's or person's certificate, that such veteran or person was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

Advance Payment of Initial Educational Assistance or Subsistence Allowance

[(d)**]**(*c*)(1) The educational assistance or subsistence allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a serviceman on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. An advance payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs of this subsection. The application for advance payment, to be made on a form prescribed by the Administrator, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

(3) For purposes of the Administrator's determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish such veteran's or person's eligibility unless there is evidence in such veteran's or person's file in the processing office establishing that the veteran or person is not eligible for such advance payment.

(4) The advance payment authorized by paragraph (2) of this subsection shall, in the case of an eligible veteran or eligible person, be (A) drawn in favor of the veteran or person; (B) mailed to the educational institution listed on the application form for temporary care and delivery to the veteran or person by such institution; and (C) delivered to the veteran or person upon the veteran's or person's registration at such institution, but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

(5) Upon delivery of the advance payment pursuant to paragraph (4) of this subsection, the institution shall submit to the Administrator a certification of such delivery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the Administrator forthwith.

Recovery of Erroneous Payments

[(e)] *(d)* If an eligible veteran or eligible person fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under subsection [(d)] *(c)* (2) of this section, shall become an overpayment and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section 3102 of this title, from any benefit otherwise due such veteran or person under due to erroneous information required to be furnished under subsection recovered in the same manner as any other debt due the United States.

Payments for Less Than Half-Time Training

[(f)] *(e)* Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education on less than a half-time basis shall be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that such veteran or person has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided in section 1682(b) or 1732(a)(2) of this title, as applicable.

Determination of Enrollment, Pursuit, and Attendance

[(g)] (*f*) The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which the veteran or person receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course. Subject to such reports and proof as the Administrator may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the Administrator is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.

Subchapter II—Miscellaneous Provisions

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§ 1784. Reports by veterans, eligible persons, and institutions; reporting fee

(a) The veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 34, 35, or 36 of this title shall, without delay, report to the Administrator, in the form prescribed by the Administrator, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit [or, in the case of correspondence training, the last date a lesson was serviced by a school].

* * * * * * *

(c) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Administrator by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 34 or 35 of this title, or $11 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780[(d)] (*c*)(4) of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 per centum from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

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[§ 1786. Correspondence courses

[(a) (1) Each eligible veteran (as defined in section 1652(a)(1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 1701(a)(1) (B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term "established charge" as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

[(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $342 which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

[(3) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of this subsection for pursuit of a program of education exclusively by correspondence in which the veteran or spouse or surviving spouse enrolls after September 30, 1981.

[(b) The enrollment agreement shall fully disclose the obligation of both the institution and the veteran or spouse or surviving spouse and shall prominently display the provisions of affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the Administrator to the veteran or spouse or surviving spouse. A copy of the enrollment agreement shall be furnished to each such veteran or spouse or surviving spouse at the time such veteran or spouse or surviving spouse signs such agreement. No such agreement shall be effective unless such veteran or spouse or surviving spouse shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Administrator a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the veteran or spouse or surviving spouse at any time notifies the institution of such veteran's or spouse's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

[(c) In the event a veteran or spouse or surviving spouse elects to terminate such veteran's or spouse's enrollment under an affirmed enrollment agreement, the institution (other than one subject to the provisions of section 1776 of this title) may charge the veteran or spouse or surviving spouse a registration or similar fee not in excess of 10 per centum of the tuition for the course, or $50, whichever is less. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of one or more but less than 25 per centum of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 per centum of the tuition for the course. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of 25 per centum but less than 50 per centum of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 per centum of the course tuition. If 50 per centum or more of the lessons are completed, no refund of tuition is required.]

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Subchapter III—Education Loans to Eligible Veterans and Eligible Persons

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a) * * *

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(c) An eligible veteran or person shall be entitled to a loan under this subchapter if such veteran or person—

(1) is in attendance at an educational institution on at least a half-time basis and (A) is enrolled in a course leading to a standard college degree, or (B) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the Administrator may waive the requirements of subclause (B) of this clause, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government;

(2) enters into an agreement with the Administrator meeting the requirements of subsection (d) of this section; and

(3) satisfies any criteria established under subsection (g) of this section.

No loan shall be made under this subchapter to an eligible veteran or person pursuing a program of [correspondence, or] apprenticeship or other on-job training.

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I—GENERAL

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1801. Definitions.
1802. Basic entitlement.
1803. Basic provisions relating to loan guaranty.
1804. Restrictions on loans.
1805. Warranties.
1806. Escrow of deposits and downpayments.
1807. Service after July 25, 1947, and prior to June 27, 1950.

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1810. Purchase or construction of homes.
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1817. Release from liability under guaranty.
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1819. Loans to purchase mobile homes and mobile home lots.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

1820. Powers of Administrator.
1821. Incontestability.
1823. Direct loan revolving fund.
1824. Loan guaranty revolving fund.
1825. Waiver of discharge requirements for hospitalized persons.
1826. Withholding of payments, benefits, etc.
1827. Expenditures to correct or compensate for structural defects in mortgaged homes.
1828. Exemption from State anti-usury provisions.
1829. Loan fees.

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Subchapter III—Administrative Provisions

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§ *1829. Loan fees*

(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a loan guaranteed, made, or insured under this chapter, and no loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be one half of 1 percent of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

(b) A fee shall not be collected under this section from a veteran receiving or entitled to receive compensation or from a surviving spouse described in section 1801(b)(2) of this title.

(c) Fees collected under this section shall be deposited into the Treasury as miscellaneous receipts.

(d) A fee may not collected under this section with respect to any loan closed after September 30, 1985.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 51—APPLICATIONS, EFFECTIVE DATES AND PAYMENTS

SUBCHAPTER I—APPLICATIONS

Sec.

3001. Claims and forms.
3002. Application forms furnished upon request.
3003. Incomplete applications.
3005. Joint applications for social security and dependency and indemnity compensation.
3006. Furnishing of information by other agencies.

SUBCHAPTER II—EFFECTIVE DATES

3010. Effective dates of awards.
3011. Commencement of payment based on an award.
3012. Effective dates of reductions and discontinuances.
3013. Effective date of educational benefits.

SUBCHAPTER III—PAYMENT OF BENEFITS

3020. Payment of benefits; delivery.
3021. Payment of certain accrued benefits upon death of beneficiary.
3022. Cancellation of checks mailed to deceased payees.
3023. Rounding of pension.

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Subchapter II—Effective Dates

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§ *3011. Commencement of payment based on an award*

(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made for any period before the first day of the calendar month following the month in which the award became effective as provided under section 3010 of this title or such other provision of law.

(b)(1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the

filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.

§ 3012. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the [calendar year] *month* in which such marriage, annulment, divorce, or death occurs;

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Subchapter III—Payment of Benefits

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§ 3023. Rounding of pension payments

The amount of any pension payment under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95–588), if not a multiple of $1, shall be rounded down to the next lower multiple of $1.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

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§ 5010. Operation of medical facilities

(a)(1) * * *

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(6) (A) Except as provided in subparagraph (B) of this paragraph, all activities carried out at a medical facility under the direct jurisdiction of the Administrator shall be performed by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director, determines that such facility is not capable of carrying out any such activity through such employees or that contracting for the performance of such activity would enhance the quality of medical care for eligible veterans.

(B) Subparagraph (A) of this paragraph does not prohibit or restrict any authority of the Veterans' Administration under any other provision of this title or any other provision of law to enter into contracts or cooperative sharing agreements with other Federal agencies or departments or with State or nongovernmental entities for the exchange or sharing of goods, services, facilities, or resources.

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SECTION 604 OF THE VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1972

SEC. 604. (a) Notwithstanding the provisions of section 1712(b) of title 38, United States Code, a wife or widow [(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)] entitled to receive the benefits of subsection (a) of section 1733 of this title (as added by section 313 of this Act), shall have 10 years from the date of the enactment of this Act in which to complete such a program of education or receive such benefits.

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